



# POLICY MANUAL



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### **3.1. A**



<b>POLICY:</b>	ALCOHOL FREE AREA EXEMPTION
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Cultural & Community Services Report #1 Council 17 June 2009 Minute Book No. 10690
<b>FILE REFERENCE:</b>	20.00126
<b>OBJECTIVE:</b>	To provide a mechanism by which individuals can obtain an alcohol free area exemption permit

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The following provision for gaining exemption to the twenty four hour alcohol free areas established by the Bathurst Regional Council under the Local Government Act section 632 as outlined below.

### **Eligibility**

The exemption applies only to special, irregular occasions including community events such as festivals or gatherings and small private events such as weddings or other family celebrations. Exemption will only be given to events that occur on an irregular basis. Any member of the public may apply for exemption providing they are over the age of eighteen.

### **Process**

The process in gaining exemption requires an application form to be filled in and a prescribed fee be paid to the Bathurst Regional Council. This must take place prior to the event. The exemption form will only be valid on receipt of payment of the fee and must be presented to police on request. Failure to present permit will result in the cancellation of exemption.

### **3.2. B**

**POLICY: BATHURST LIBRARY POLICIES**

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Policies pertaining to the Bathurst Library are contained within the Policy Manual Library Services.

Copies of these Policies are available from the Bathurst Library.

The Policies included in the Manual are as follows:

As at 23 November 2021

<b>#</b>	<b>Policy</b>	<b>Date Adopted</b>
001	Customer Service Charter & Customer Code of Conduct	18 August 2021
002	Privacy Statement	18 August 2021
003	Membership	18 August 2021
004	Lending Policy	18 August 2021
005	Public Internet Usage	18 August 2021
006	Customer Exclusion	18 August 2021
007	Children and Young People	18 August 2021
008	Collection Development	18 August 2021

### 3.3. C

POLICY:	CODE OF CONDUCT (OLG 2020 Model Version)
DATE ADOPTED:	General Manager's Report #6.1.9 Extraordinary Council Meeting 19 January 2022 Resolution No: ORD2022-10 Council Meeting 2 February 2022 Resolution No: ORD2022-21  Director Corporate Services & Finance Report 8.3.8 Council Meeting 16 September 2020 Minute Number. ORD2020-245 Review Date – September 2023
ORIGINAL ADOPTION:	Director Corporate Services Report #5 Council 15 May 2019 Minute Book No. 12982
FILE REFERENCE:	11.00024
OBJECTIVE:	To assist Councillors, members of staff and delegates: <ul style="list-style-type: none"> <li>• understand the standards of conduct that are expected of them</li> <li>• enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)</li> <li>• act in a way that enhances public confidence in the integrity of local government.</li> </ul>

## PART 1 INTRODUCTION

The *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”) is made under section 440 of the *Local Government Act 1993* (“LGA”) and the *Local Government (General) Regulation 2005* (“the Regulation”).

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not “council officials” for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's

adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.

**Note:** References in the Model Code of Conduct to councils are also to be taken as references to county councils and joint organisations.

**Note:** In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

**Note:** In adopting the Model Code of Conduct, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## PART 2 DEFINITIONS

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee

council committee	
member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government

personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to



## **PART 3 GENERAL CONDUCT OBLIGATIONS**

### General conduct

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the council or other council officials into disrepute
  - b) is contrary to statutory requirements or the council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) involves the misuse of your position to obtain a private benefit
  - g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (*section 439*).

### Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

### Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person
  - b) offends, humiliates or intimidates the person, and
  - c) creates a hostile environment.

### Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.

- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments
  - c) spreading malicious rumours
  - d) teasing, practical jokes or 'initiation ceremonies'
  - e) exclusion from work-related events
  - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
  - g) displaying offensive material
  - h) pressure to behave in an inappropriate manner.
- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

#### Work health and safety

- 3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
  - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
  - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
  - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
  - e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
  - f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

#### Land use planning, development assessment and other regulatory functions

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between

yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

#### Binding caucus votes

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.17 Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

#### Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

## PART 4 PECUNIARY INTERESTS

### What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

### What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
  - (b) your interest as a ratepayer or person liable to pay a charge
  - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
  - (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code

- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
- (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
  - ii) security for damage to footpaths or roads
  - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, “relative” has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA

- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council staff other than designated persons?

4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisers?

4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.

- 4.19 For the purposes of clause 4.18, a “council committee member” includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

- 4.20 A councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor’s or designated person’s interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a councillor or designated person, and
  - (b) 30 June of each year, and
  - (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
  - (b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
- (a) at any time during which the matter is being considered or discussed by the council or committee, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
  - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal



applies to the whole or a significant portion of the council's area,  
and

- (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
- (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:

- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
- (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

## **PART 5 NON-PECUNIARY CONFLICTS OF INTEREST**

### What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

### Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
  - a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
  - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and

business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.

- c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
- d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
- e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
- f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.

5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

#### Political donations

5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
  - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

#### Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
    - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council’s area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council’s area, and
  - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person’s principal place of residence, and
  - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.
- 5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - b) that it is in the interests of the electors for the area to do so.
- 5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member

must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

#### Other business or employment

- 5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
  - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
  - c) require them to work while on council duty
  - d) discredit or disadvantage the council
  - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

#### Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

## PART 6 PERSONAL BENEFIT

For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.

A reference to a gift or benefit in this Part does not include:

- a) items with a value of \$10 or less
- b) a political donation for the purposes of the *Electoral Funding Act 2018*
- c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
- d) a benefit or facility provided by the council to an employee or councillor
- e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
- f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
  - i) the discussion of official business
  - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
  - iii) conferences
  - iv) council functions or events
  - v) social functions organised by groups, such as council committees and community organisations.

### Gifts and benefits

6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.

6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

### How are offers of gifts and benefits to be dealt with?

6.5 You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in

writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

#### Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- b) gifts of alcohol that do not exceed a value of \$100
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$100 in value.

#### Gifts and benefits of more than token value

6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

#### "Cash-like gifts"

6.13 For the purposes of clause 6.5(e), "cash-like gifts" include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

#### Improper and undue influence

6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A

councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.

- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.



## **PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS**

### Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

### Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out ethically, efficiently, economically and effectively
  - c) carry out reasonable and lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

### Inappropriate interactions

- 7.6 You must not engage in any of the following inappropriate interactions:
- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters

- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.

## **PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES**

### Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

### Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

### Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

### Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
  - b) not use that council information for private purposes
  - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council

- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

#### Use and security of confidential information

8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.

8.11 In addition to your general obligations relating to the use of council information, you must:

- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- b) protect confidential information
- c) only release confidential information if you have authority to do so
- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

#### Personal information

8.12 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) the council's privacy management plan
- e) the Privacy Code of Practice for Local Government

#### Use of council resources

8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.

8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

#### Internet access

- 8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

#### Council record keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.
- 8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.
- 8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

#### Councillor access to council buildings

- 8.25 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 8.26 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 8.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

## **PART 9 MAINTAINING THE INTEGRITY OF THIS CODE**

### Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this code under the Procedures.

### Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

### Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

### Disclosure of information about the consideration of a matter under the Procedures

- 9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.

- 9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.

## **SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21**

### Part 1: Preliminary

#### Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

*occupation* includes trade, profession and vocation.



*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.

#### Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

## Part 2: Pecuniary interests to be disclosed in returns

### Real property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

### Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

### Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
  - a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or

- d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
- e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
- f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
- g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.

14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

#### Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:

- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
- b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
- c) the nature of the interest, or the position held, in each of the corporations, and
- d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.

16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:

- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
- b) required to apply its profits or other income in promoting its objects, and
- c) prohibited from paying any dividend to its members.

17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.

18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

#### Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.

20. For the purposes of clause 19 of this schedule:

*close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.

*property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

#### Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:

- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and

- b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
- c) a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

#### Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.

25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

#### Sources of income

26. A person making a return under clause 4.21 of this code must disclose:

- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
- b) each source of income received by the person in the period since 30 June of the previous financial year.

27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:

- a) in relation to income from an occupation of the person:
  - (i) a description of the occupation, and
  - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
  - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
- b) in relation to income from a trust, the name and address of the settlor and the trustee, or
- c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.

28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.

29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.

30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

#### Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:

- a) on the return date, and
- b) at any time in the period since 30 June of the previous financial year.

32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.

33. A liability to pay a debt need not be disclosed by a person in a return if:

- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
  - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
  - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
- b) the person was liable to pay the debt to a relative, or
- c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
  - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
  - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

#### Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

## **SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21**

### 'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

### Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Disclosure of pecuniary interests and other matters by [full name of councillor or designated person]

as at [return date]

in respect of the period from [date] to [date]

[councillor's or designated person's signature]

[date]

#### A. Real Property

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest
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#### B. Sources of income

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June  
Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
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2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June  
Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
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3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]

#### C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
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#### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
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E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)

F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

G. Positions in trade unions and professional or business associations

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position

H. Debts

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

I. Dispositions of property

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

J. Discretionary disclosures

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**SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST  
SUBMITTED UNDER CLAUSE 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

**Important information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the      day of              20 .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

<sup>1</sup> Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

<sup>2</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]



POLICY:	CODE OF CONDUCT - PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT (2020 OLG version)
DATE ADOPTED:	Director Corporate Services & Finance Report 8.3.8 Council 16 September 2020 Minute Number. ORD2020-245
	Director Corporate Services & Finance's Report #8 Council 15 May 2019 Minute Book No. 12982
ORIGINAL ADOPTION:	Director Corporate Services & Finance's Report #8 Council 15 May 2019 Minute Book No. 12982
FILE REFERENCE:	11.00024
OBJECTIVE:	To assist Councillors, members of staff and delegates: understand the standards of conduct that are expected of them enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439) act in a way that enhances public confidence in the integrity of local government.

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## PART 1 INTRODUCTION

These procedures (“the Model Code Procedures”) are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”).

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* (“the LGA”) and the *Local Government (General) Regulation 2005* (“the Regulation”). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

**Note:** References in these procedures to councils are also to be taken as references to county councils and joint organisations.

**Note:** In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

**Note:** In adopting the Model Code Procedures, county councils should adapt them to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

**Note:** Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

## **PART 2 DEFINITIONS**

In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council’s audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council’s audit, risk and improvement committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser

delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 400O of the LGA
LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

### **PART 3 ADMINISTRATIVE FRAMEWORK**

#### The establishment of a panel of conduct reviewers

- 3.1 The council must establish a panel of conduct reviewers.
- 3.2 The council may enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:

- a) an understanding of local government, and
- b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
- c) knowledge and experience of one or more of the following:
  - i) investigations
  - ii) law
  - iii) public administration
  - iv) public sector ethics
  - v) alternative dispute resolution, and
- d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.

3.6 A person is not eligible to be a conduct reviewer if they are:

- a) a councillor, or
- b) a nominee for election as a councillor, or
- c) an administrator, or
- d) an employee of a council, or
- e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- g) a person who has a conviction for an indictable offence that is not an expired conviction.

3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.

3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.

3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.

3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.

3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.

3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.



### The appointment of an internal ombudsman to a panel of conduct reviewers

Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.

To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.

An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.

Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

### The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
  - b) liaise with and provide administrative support to a conduct reviewer
  - c) liaise with the Office, and
  - d) arrange the annual reporting of code of conduct complaints statistics.

## **PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?**

### What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their

role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.

- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within 3 months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

### How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

## **PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?**

### Delegation by general managers and mayors of their functions under this Part

- 5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

### Consideration of complaints by general managers and mayors

- 5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

### What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a) is not a code of conduct complaint, or
  - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
  - c) is trivial, frivolous, vexatious or not made in good faith, or
  - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
  - e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the general manager) to be dealt with?

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general

manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure
  - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
  - c) prosecution for any breach of the law
  - d) removing or restricting the person's delegation
  - e) removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
  - b) the person must be given an opportunity to respond to the allegation, and
  - c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

#### How are code of conduct complaints about administrators to be dealt with?

- 5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.
- 5.19 The general manager must notify the complainant of the referral of their complaint in writing.

#### How are code of conduct complaints about councillors to be dealt with?

- 5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)

- c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

- 5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.
- 5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

#### How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
  - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
  - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.

- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the general manager and the mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
  - b) refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

### Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
  - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
  - d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
  - e) it is otherwise in the public interest to do so.
- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

### Code of conduct complaints made as public interest disclosures

- 5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.



### Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
  - b) impeded or disrupted the effective administration by the council of its code of conduct, or
  - c) impeded or disrupted the effective functioning of the council.
- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a) the code of conduct complaints the arrangement relates to, and
  - b) the period that the arrangement will be in force.
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.
- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.
- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

## **PART 6 PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS**

### Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.

- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
  - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
  - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- a) comply with these procedures in their consideration of the matter, or
  - b) comply with a lawful and reasonable request by the complaints coordinator, or

c) exercise their functions in a timely or satisfactory manner.

6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer

6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.

6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:

- a) to take no action
- b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- d) to refer the matter to an external agency
- e) to investigate the matter.

6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.

6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.

6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.

6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.

6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.

- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment if it were to be proven, and
  - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

#### Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the

general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.

- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

### Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
  - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
  - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
  - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
  - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
  - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
  - i) any previous proven breaches of the council's code of conduct
  - j) whether the conduct complained of forms part of an ongoing pattern of behaviour
  - k) whether there were mitigating circumstances giving rise to the conduct complained of
  - l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
  - m) the significance of the conduct or the impact of the conduct for the council
  - n) how much time has passed since the alleged conduct occurred
  - o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

## **PART 7 INVESTIGATIONS OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER**

### What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.

- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or do not arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

#### How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
- a) disclose the substance of the allegations against the respondent, and
  - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and
  - d) advise the respondent of the requirement to maintain confidentiality, and
  - e) invite the respondent to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice, and
  - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within a period of not less than 14 days specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
  - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
  - c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

#### Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of

investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.

- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

#### How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

#### Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:
  - a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - c) refer the matter to an external agency.

- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

#### Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.



7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

#### Final investigation reports

7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.

7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.

7.35 The investigator's final report must:

- a) make findings of fact in relation to the matter investigated, and,
- b) make a determination that the conduct investigated either,
  - i. constitutes a breach of the code of conduct, or
  - ii. does not constitute a breach of the code of conduct, and
- c) provide reasons for the determination.

7.36 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the respondent
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
- c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
- d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
- e) a description of any attempts made to resolve the matter by use of alternative means
- f) the steps taken to investigate the matter
- g) the facts of the matter
- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
- i) the investigator's determination and the reasons for that determination
- j) any recommendations.

7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:

- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
- b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
- c) in the case of a breach by a councillor, that the council resolves as follows:
  - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
  - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.

- 7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
  - b) that a person or persons undertake any training or other education.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - b) the investigator's determination and the reasons for that determination
  - c) any recommendations, and
  - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.
- 7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

#### Consideration of the final investigation report by council

- 7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37.
- 7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or

in writing. The respondent is to confine their submission to addressing the investigator's recommendation.

- 7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.52 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from the Office in relation to the report.
- 7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
  - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
  - c) in the case of a breach by a councillor:
    - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
    - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

- 7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

## **PART 8    OVERSIGHT AND RIGHTS OF REVIEW**

### The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

### Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

### Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

### Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the

sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
  - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed. Where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
  - b) the council must:
    - i. review its decision to impose the sanction, and
    - ii. consider the Office's recommendation in doing so, and
    - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

## **PART 9 PROCEDURAL IRREGULARITIES**

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.

## **10 PRACTICE DIRECTIONS**

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

## **11 REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE GENERAL MANAGER**

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
  - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
  - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
  - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
  - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
  - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
  - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

## **12 CONFIDENTIALITY**

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly

disclosed except as may be otherwise specifically required or permitted under these procedures.

- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
  - a) the complainant
  - b) the complaints coordinator
  - c) the Office, and
  - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.

## **Addendum A**

Council adopted the following criteria to provide clarification and assistance when dealing with the Code of Conduct Procedures.

### Criteria 1

Any approach to the defining of access rights of people to the Code of Conduct - Reporting of Breaches, Complaint Handling Procedures and Sanctions process, must begin with the understanding that:

- (a) criticism and complaints are a legitimate and necessary part of the relationship between Councils and their customers or communities, and may be dynamic forces for improvement within Councils, and,
- (b) nobody, no matter how much time and effort is taken up in responding to his or her complaints or concerns, should be unconditionally deprived of the right to have those concerns addressed.

As Councils also have an obligation to use resources efficiently and effectively, at some point it may be necessary and reasonable for the Council to decide to limit the nature or scope of its responses to difficult complainants. However, these situations should be the exception rather than the rule.

### Criteria 2

Any allegations that the Code of Conduct Committee is unlawfully constituted because it does not give notice of its meetings and permit Councillors who are not members of the Committee to attend in breach of the Local Government Act have no foundation in law and will not be acted upon (refer BRC's General Manager's Ordinary Report No 6, 15 March 2006).

### Criteria 3

A complaint that deals with the same subject matter as a previous complaint that has been dealt with under the Code of Conduct process, and does not provide substantive new information shall not be reconsidered (Refer BRC's Code of Conduct Committee: Report No 3, 19 April 2006 and No 1, 21 June 2006).

### Criteria 4

It is not a matter for the Code of Conduct to stifle debate, even if it is robust debate. Debate in the Chamber is a matter for control at the meeting. (Refer BRC's Code of Conduct Committee Report No 3, 19 April 2006).

### Criteria 5

Matters outside the jurisdiction of the Council will not be investigated.

### Criteria 6

There will sometimes be occasions where a complaint which might otherwise justify investigations should not or cannot be pursued eg: where issues raised in the complaint occurred a long time ago (in such cases it may be difficult to track witnesses and/or documents, recollections of events will be limited and evidence unavailable as a result of the passage of time).

Consideration of such factors can be taken into account when considering complaints.

### Criteria 7



Complaints that do not raise substantive issues but are a vehicle of abuse of Councillors, members of staff and delegates, will not be referred to the Code of Conduct Committee.

### Criteria 8

Where a person's behaviour becomes so unreasonable the Code of Conduct process will have regard to the following behavioural triggers.

It is important to note that the mere fact that a complainant is persistent, makes demands or may be angry does not mean that their conduct is unreasonable. "Unreasonableness" needs the conduct to go beyond the norm of situational stress that many complaints experience (Refer also Criteria 1).

#### **1. Unreasonable Persistence:**

- persisting with a complaint even though it has been comprehensively considered by an agency, and all avenues of review have been exhausted.
- reframing a complaint in an attempt to get it taken up again.
- showing an inability to accept the final decision.
- insisting that a particular solution is the correct one in the face of valid contrary or alternative arguments.
- persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly.
- persisting in wanting to know where to go next, when it has been explained that there is nowhere else to go.
- demanding a review because it is available, but not arguing a case for a review.
- making an issue out of anything.
- getting gratification from the process of regular contact with the case officer, possibly including inventing unnecessary reasons for having such contact.

#### **2. Unreasonable Demands:**

- insisting on outcomes that are unattainable.
- insisting on a "moral" outcome, eg justice in the community interest, when really a personal interest is at stake.
- demanding an apology or compensation when no reasonable basis for expecting such outcomes exists.
- wanting revenge, retribution.
- wanting what is not possible or appropriate, eg copies of sensitive documents, names and contact details of staff, other complainants or whistleblowers.
- issuing instructions and making demands about how a complaint should be handled.
- providing supporting details that are extraordinarily detailed when such detail is not relevant to the complaint.
- making unreasonable resource demands, out of proportion to the seriousness of issue.
- wanting regular and lengthy phone contact where this is not warranted.
- showing reactions or demand for action that are out of proportion to the significance of the issue.
- moving the goal posts - changing the desired outcome.
- shopping for a sympathetic ear in the agency - demanding to talk to a supervisor or the Manager personally.
- placing the agency on an extensive email copy list and expecting responses to these emails.
- consistently creating complexity where there is none.
- presenting as overly needy or dependent (eg wanting to transfer responsibility for their well-being to the complaint handler or agency).

**3. Unreasonable lack of co-operation:**

- presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this.
- presenting information in dribs and drabs - refusing to present all information at the outset.
- refusing to define issues of complaints "the attached (usually a large quantity of information) speaks for itself" - where the complainant is clearly capable of doing this.
- focusing on principles rather than substantive issues.
- changing the complaint and raising new issues while the complaint is in the process of being considered.
- displaying unhelpful behaviour, eg withholding information, being dishonest, misquoting others, swamping the agency with documents.

**4. Unreasonable arguments:**

- holding irrational beliefs, eg seeing cause and effect links where there are clearly none.
- holding what is clearly a conspiracy theory unsupported by any evidence.
- interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one.
- insisting on the importance of an issue that is clearly trivial.
- arguing the clearly bizarre.

**5. Unreasonable behaviour:**

- displaying confronting behaviour, eg rudeness, aggression, threats or harassment.
- sending rude, confronting or threatening letters.
- making threats of self harm.
- making threats of harm to others.
- displaying manipulative behaviour (overly ingratiating, tears or veiled threats).

<b>POLICY:</b>	CODE OF MEETING PRACTICE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #9 Council 17 August 2022 Minute No. ORD2022-298
	Director Corporate Services & Finance's Report #9 Policy 6 March 2019 Council 19 June 2019 Minute Book No. 12989
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #9 Policy 6 March 2019 Council 19 June 2019 Minute Book No. 12989
<b>FILE REFERENCE:</b>	11.00039/012, 07.00064, 07.00065
<b>OBJECTIVE:</b>	To establish set guidelines for the conduct of Council's Meetings

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## 1 INTRODUCTION

This Code of Meeting Practice for Bathurst Regional Council is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This code applies to all meetings of Council and Council's committees of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless Council determines otherwise.

## 2 MEETING PRINCIPLES

### 2.1 Council and committee meetings should be:

- Transparent: Decisions are made in a way that is open and accountable.
- Informed: Decisions are made based on relevant, quality information.
- Inclusive: Decisions respect the diverse needs and interests of the local community.
- Principled: Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

- Respectful: Councillors, staff and meeting attendees treat each other with respect.
- Effective: Meetings are well organised, effectively run and skilfully chaired.
- Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

### 3 BEFORE THE MEETING

#### Timing of ordinary council meetings

- 3.1 Ordinary meetings of Council will commence at 6:00pm or immediately following the conclusion of Public Forum on the third Wednesday of each month, except that the December meeting will be held on the second Wednesday, and the January meeting will be held on the first Wednesday in February.
- 3.2 An Ordinary meeting of Council will be held, if required, on the first Wednesday of each month. This meeting will commence at 6:00pm or immediately following the Policy Committee and will include matters considered urgent by the Mayor, Councillors or General Manager and Reports of Officers to facilitate decision making.
- 3.3 Council may change the time or date of any particular meeting, by resolution at a preceding meeting, without prior notice being given.

**Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.**

#### Extraordinary meetings

- 3.4 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note: Clause 3.4 reflects section 366 of the Act.**

#### Notice to the public of council meetings

- 3.5 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note: Clause 3.5 reflects section 9(1) of the Act.**

- 3.6 For the purposes of clause 3.5, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.7 For the purposes of clause 3.5, notice of more than one (1) meeting may be given in the same notice.

#### Notice to councillors of ordinary council meetings

- 3.8 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note: Clause 3.8 reflects section 367(1) of the Act.**

- 3.9 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note: Clause 3.9 reflects section 367(3) of the Act.**

#### Notice to councillors of extraordinary meetings

- 3.10 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 3.10 reflects section 367(2) of the Act.**

#### Giving notice of business to be considered at council meetings

- 3.11 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted eight (8) business days before the meeting is to be held.
- 3.12 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.13 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 3.14 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion.

#### Questions with notice

- 3.15 A councillor may, by way of a notice submitted under clause 3.11, ask a question for response by the general manager about the performance or operations of the council.

- 3.16 A councillor is not permitted to ask a question with notice under clause 3.15 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.

The general manager or their nominee may respond to a question with notice submitted under clause 3.15 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

#### Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.11.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

#### **Note: Clause 3.22 reflects section 9(2A)(a) of the Act.**

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

### 3.23 Statement of ethical obligations

Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

### Availability of the agenda and business papers to the public

3.24 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

**Note: Clause 3.24 reflects section 9(2) and (4) of the Act.**

3.25 Clause 3.24 does not apply to the business papers for items of business that the general manager has identified under clause 3.22 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 3.25 reflects section 9(2A)(b) of the Act.**

3.26 For the purposes of clause 3.24, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 3.26 reflects section 9(3) of the Act.**

3.27 A copy of an agenda, or of an associated business paper made available under clause 3.24, may in addition be given or made available in electronic form.

**Note: Clause 3.27 reflects section 9(5) of the Act.**

### Agenda and business papers for extraordinary meetings

3.28 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

3.29 Despite clause 3.28, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.30 A motion moved under clause 3.29(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

- 3.31 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.29(a) can speak to the motion before it is put.
- 3.32 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.29(b) on whether a matter is of great urgency.

#### **4 PUBLIC FORUMS**

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council (with the exception of the Ordinary Meeting after the Policy Committee) for the purpose of hearing oral submissions from members of the public. Public Forums will commence prior to the start of the Ordinary Meeting at 6.00 p.m.
- 4.2 Public forums are to be chaired by the mayor or their nominee.
- 4.3 Nominated candidates at federal, state or local government elections are not permitted to speak at a public forum.
- 4.4 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when speaking at the public forum.
- 4.5 Each speaker will be allowed five (5) minutes to address the council, with a one (1) minute warning sounded at four (4) minutes. This time is to be strictly enforced by the chairperson.
- 4.6 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.7 Speakers are under no obligation to answer a question put under clause 4.6. Answers by the speaker, to each question are to be limited to one (1) minute.
- 4.8 Speakers at public forums cannot ask questions of the council, or councillors. Questions may be asked of council staff. Questions of council staff may be taken on notice with a response being provided subsequent to the meeting.
- 4.9 The general manager or their nominee may, with the concurrence of the chairperson, address the council in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.10 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.11 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.12 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.11, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and



unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

- 4.13 Clause 4.10 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.14 Where a speaker engages in conduct of the type referred to in clause 4.9, the chairperson may refuse further requests from that person to speak at public forums for such a period as the chairperson considers appropriate.
- 4.15 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

**Note: Public forums are not held as part of a council or committee meeting. Council or committee meetings *should be* reserved for decision-making by the council or committee of council. Where a public forum is held in *as part of* a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**

## 5 COMING TOGETHER

### Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.
- Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**
- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.
- 5.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

- 5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.6 reflects section 234(1)(d) of the Act.**

- 5.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

#### The quorum for a meeting

- 5.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 5.8 reflects section 368(1) of the Act.**

- 5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.9 reflects section 368(2) of the Act.**

- 5.10 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.11 In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the general manager.

- 5.12 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

- 5.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner

that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

- 5.14 Where a meeting is cancelled under clause 5.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.4.

#### Meetings held by audio-visual link

- 5.15 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.
- 5.16 Where the mayor determines under clause 5.15 that a meeting is to be held by audio-visual link, the general manager must:
- (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
  - (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
  - (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.
- 5.17 This code applies to a meeting held by audio-visual link under clause 5.15 in the same way it would if the meeting was held in person.

**Note: Where a council holds a meeting by audio-visual link under clause 5.15, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**

#### Attendance by councillors at meetings by audio-visual link

- 5.18 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.19 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.20 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-

visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.19.

- 5.21 The council must comply with the Health Privacy Principles prescribed under the Health Records and Information Privacy Act 2002 when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.22 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.23 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
- (a) the meetings the resolution applies to, and
  - (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.24 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.25 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.
- 5.26 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.27 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.
- 5.28 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 5.29 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent

with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

#### Entitlement of the public to attend council meetings

5.30 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 5.30 reflects section 10(1) of the Act.**

5.31 Clause 5.30 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

5.32 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 5.32 reflects section 10(2) of the Act.**

**Note: Clause 15.14 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**

#### Webcasting of meetings

5.33 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.

5.34 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:

- (a) the meeting is being recorded and made publicly available on the council's website, and
- (b) persons attending the meeting should refrain from making any defamatory comments.

5.35 The recording of a meeting is to be made publicly available on the council's website:

- (a) at the same time as the meeting is taking place, or
- (b) as soon as practicable after the meeting.

5.36 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting. Recordings of meetings may be disposed of in accordance with the State Records Act 1998.

**Note: (1) Clauses 5.35 and 5.36 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.**

**(2) Clauses 5.33-5.36 reflect section 236 of the Regulation.**

### Attendance of the general manager and other staff at meetings

- 5.37 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 5.37 reflects section 376(1) of the Act.**

- 5.38 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.38 reflects section 376(2) of the Act.**

- 5.39 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

**Note: Clause 5.39 reflects section 376(3) of the Act.**

- 5.40 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

- 5.41 The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the general manager.

## **6 THE CHAIRPERSON**

### The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**

### Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

- 6.4 The election of a chairperson must be conducted:

- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

#### Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## **7 MODES OF ADDRESS**

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## **8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS**

- 8.1 The general order of business for an ordinary meeting of the council shall be:
1. Opening of meeting
  2. Prayer
  3. Acknowledgement of country
  4. Apologies and applications for a leave of absence or attendance by audio-visual link by councillors
  5. Confirmation of minutes
  6. Declaration of interests
  7. Mayoral minute(s)
  8. Receive and Deal with General Manager's and Directors' Reports
  9. Reports of committees
  10. Notices of motions/Questions with notice
  11. Rescission Motions

- 12. Councillor/Delegates Reports
- 13. Confidential matters
- 14. Conclusion of the Meeting

8.2 The order of business as fixed under clause 8.1 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: Part 13 allows council to deal with items of business by exception.**

8.3 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.2 may speak to the motion before it is put.

## 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

### Business that can be dealt with at a council meeting

9.1 The council must not consider business at a meeting of the council:

- (a) unless a councillor has given notice of the business, as required by clause 3.11, and
- (b) unless notice of the business has been sent to the councillors in accordance with clause 3.8 in the case of an ordinary meeting or clause 3.10 in the case of an extraordinary meeting called in an emergency.

9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:

- (a) is already before, or directly relates to, a matter that is already before the council, or
- (b) is the election of a chairperson to preside at the meeting, or
- (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
- (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.

9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.

9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

### Mayoral minutes

9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice



any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation.

#### Staff reports

- 9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

#### Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

#### Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.11 and 3.15.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## **10 RULES OF DEBATE**

### Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

### Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.11 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.11 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

### Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

### Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report

from the general manager on the availability of funds for implementing the motion if adopted.

#### Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

#### Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

#### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of

general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.

- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

## 11 VOTING

### Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

#### Voting at council meetings

- 11.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- 11.5 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.
- 11.6 The decision of the chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.
- 11.7 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.
- 11.8 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.4 of this code.
- 11.9 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

#### Voting on planning decisions

- 11.10 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.11 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.12 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.13 Clauses 11.11–11.13 apply also to meetings that are closed to the public.

**Note: Clauses 11.11–11.14 reflect section 375A of the Act.**

**Note: The requirements of clause 11.11 may be satisfied by maintaining a register of the minutes of each planning decision.**

## **12 COMMITTEE OF THE WHOLE**

- 12.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 12.1 reflects section 373 of the Act.**

- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

## **13 DEALING WITH ITEMS BY EXCEPTION**

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.2.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.

- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## 14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

### Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) alleged contraventions of the council's code of conduct.

**Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.**

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

**Note: Clause 14.2 reflects section 10A(3) of the Act.**

### Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is

- involved, and
- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

#### Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.22 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
  - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
    - (i) should not be deferred (because of the urgency of the matter), and
    - (ii) should take place in a part of the meeting that is closed to the public.

**Note: Clause 14.8 reflects section 10C of the Act.**

#### Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**Note: Clause 14.9 reflects section 10A(4) of the Act.**



- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.22 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by 12 noon before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than five (5) speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.22 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than five (5) speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed two (2) minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

#### Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person

from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

#### Obligations of councillors attending meetings by audio-visual link

- 14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

#### Information to be disclosed in resolutions closing meetings to the public

- 14.21 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
  - (b) the matter that is to be discussed during the closed part of the meeting,
  - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note: Clause 14.21 reflects section 10D of the Act.**

#### Resolutions passed at closed meetings to be made public

- 14.22 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.23 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.

## **15 KEEPING ORDER AT MEETINGS**

### Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

### Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

#### Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

#### Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or the Regulation or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
  - (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

**Note: Clause 15.11 reflects section 182 of the Regulation.**

- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b) or (e), or

- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

**Note: Clause 15.12 reflects section 233 of the Regulation.**

#### How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

#### Expulsion from meetings

- 15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.
- 15.15 Clause 15.14, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

**Note: Clause 15.16 reflects section 233(2) of the Regulation.**

- 15.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

#### How disorder by councillors attending meetings by audio-visual link may be dealt with

- 15.20 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.
- 15.21 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorized by the chairperson, may terminate the councillor's audio-visual link to the meeting.

#### Use of mobile phones and the unauthorised recording of meetings

- 15.22 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.23 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.24 Without limiting clause 15.17, a contravention of clause 15.23 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.17. Any person who contravenes or attempts to contravene clause 15.23, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.25 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16 CONFLICTS OF INTEREST**

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.
- 16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

## **17 DECISIONS OF THE COUNCIL**

Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

**Note: Clause 17.1 reflects section 371 of the Act.**

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.11.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

**Note: Clause 17.5 reflects section 372(3) of the Act.**

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 17.7 reflects section 372(5) of the Act.**

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 17.8 reflects section 372(7) of the Act.**

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.12 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than 12 noon on the first working day after the meeting at which the resolution was adopted.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 17.11 reflects section 372(6) of the Act.**

## 18 AFTER THE MEETING

### Minutes of meetings

- 18.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

**Note: Clause 18.1 reflects section 375(1) of the Act.**

- 18.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,
- b) details of each motion moved at a council meeting and of any amendments moved to it,
- c) the names of the mover and seconder of the motion or amendment,
- d) whether the motion or amendment was passed or lost, and
- e) such other matters specifically required under this code.

- 18.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**Note: Clause 18.3 reflects section 375(2) of the Act.**

- 18.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

- 18.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

**Note: Clause 18.5 reflects section 375(2) of the Act.**

- 18.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 18.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 18.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 18.8 reflects section 11(1) of the Act.**

- 18.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 18.9 reflects section 11(2) of the Act.**

- 18.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 18.10 reflects section 11(3) of the Act.**

- 18.11 Correspondence or reports to which clauses 18.9 and 18.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 18.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 18.12 reflects section 335(b) of the Act.**

**19 COUNCIL COMMITTEES**Application of this Part

- 19.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

- 19.2 The council may, by resolution, establish such committees as it considers necessary.
- 19.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 19.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
  - (b) if the council has not decided a number – a majority of the members of the committee.

Functions of committees



- 19.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

#### Notice of committee meetings

- 19.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.
- 19.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

#### Attendance at committee meetings

- 19.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 19.9 Clause 19.8 does not apply if all of the members of the council are members of the committee.

#### Non-members entitled to attend committee meetings

- 19.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

#### Chairperson and deputy chairperson of council committees

- 19.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 19.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

- 19.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 19.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

#### Procedure in committee meetings

- 19.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 19.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 19.15.
- 19.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

#### Closure of committee meetings to the public

- 19.18 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 19.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 19.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 19.19 during a part of the meeting that is webcast.

#### Disorder in committee meetings

- 19.21 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

#### Minutes of council committee meetings

- 19.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

- a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
- b) details of each motion moved at a meeting and of any amendments moved to it,
- c) the names of the mover and seconder of the motion or amendment,
- d) whether the motion or amendment was passed or lost, and
- e) such other matters specifically required under this code.

- 19.23 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 19.24 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 19.25 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 19.26 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 19.27 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

#### Timing of Policy Committee meetings

- 19.28 Policy Committee meetings of council will commence at 6:00pm on the first Wednesday of each month except for January, where no meeting is held.

#### Order of Business of Policy Committee meetings

- 19.29 The general order of business for a Policy Committee meeting of the council shall be:
1. Opening of meeting
  2. Prayer
  3. Acknowledgement of Country
  4. Apologies and applications for leave of absence by Councillors
  5. Confirmation of minutes
  6. Declaration of interest
  7. Mayor's reports
  8. General Manager's and Directors' Reports
  9. General business
  10. Submission hearing
  11. Conclusion of the Meeting
- 19.30 The order of business as fixed under clause 19.29 may be altered for a particular policy committee meeting of council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

- 19.31 Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 19.30 may speak to the motion before it is put.

## 20 IRREGULARITIES

- 20.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

**Note: Clause 20.1 reflects section 374 of the Act.**

## 21 DEFINITIONS

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
audio-visual link	means a facility that enables audio and visual communication between persons at different places
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 19.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 19.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW

day	means calendar day
division	means a request by two councillors under clause 11.6 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
nominated candidate	Persons listed at the close of nominations by the Returning Officer for the election as a candidate formally nominated for the election
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2005</i>
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

<b>POLICY:</b>	COMMUNITY ENGAGEMENT STRATEGY
<b>DATE ADOPTED:</b>	General Manager's Report #13 Council 27 September 2017 Minute Book No.12588  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No.11477
<b>ORIGINAL ADOPTION:</b>	General Manager's Report #1 Policy 6 April 2011 Council 20 April 2011 Minute Book No. 11095
<b>FILE REFERENCE:</b>	02.00003
<b>OBJECTIVE:</b>	To provide a framework for Council's commitment to delivering a high level of community engagement to its community

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## **1. GUIDING PRICIPLES**

### **1.1 To provide genuine support for meaningful and effective consultation**

By recognising consultation as a valued part of strategic decision making.

### **1.2 To consult before making decisions**

By referencing the Community Engagement Strategy (**refer to attachment 1**), Council will ensure the right level of consultation is applied in any given situation and matches the nature, complexity and impact of the issue, plan, project, or strategy The Strategy does not give participants the power to make final decisions but to be informed and contribute to the process.

### **1.3 To provide feedback**

By establishing agreed standards of consultation at the start of every project, Council will ensure all participants agree on a feedback process and are aware of making a commitment to ongoing communication.

### **1.4 To be representative**

By utilising the broad range of demographic and social profiling data available to Council, we will ensure we consult with the right people at the right time engaging true representative samples of the community.

### **1.5 Don't over consult**

By accessing existing relevant research, databases and information as part of the engagement planning process, Council will ensure a free flow of information between

Council departments that reduces the risk of wasting valuable resources, including valuable community time.

## 2. IMPLEMENTATION

The following Community Engagement Procedures (2.1, 2.2, 2.3 and 2.4) have been developed to enable Council to implement its Community Engagement Policy:

### 2.1 Community Engagement Commitment

By adopting the Community Engagement Strategy Policy, Council makes a commitment to conducting quality consultation and a willingness to actively engage the community in decision making and information processes. A Community Engagement Strategy also ensures a consistent approach is taken by Council in relation to projects requiring community consultation and ensures the community is well informed about Council issues, strategies, projects or plans and has the opportunity for involvement in decision making and policy development. Community engagement will apply to all facets of Council's operations where appropriate, and the standard of consultation will be designed in line with the nature, complexity and impact of the issue identified. Accordingly, engagement methods, techniques and tools used will vary according to the issue or project.

### 2.2 Planning for effective consultation

In planning for a community engagement activity in relation to a specific issue, project, strategy or plan Council will reference its Community Engagement Strategy, determine what the objectives are for the project, identify the stakeholders impacted by the project, the level and forms of engagement to be utilised, the tools to be used, the measurable outcomes and evaluation processes.

### 2.3 Community Engagement Matrix

Council will determine what level of engagement is to be utilised for each specific community engagement activity based on the International Association of Public Participation (IAP2) Spectrum of Public Participation; with the level of engagement in line with the nature, complexity and impact of the issue, plan, project, or strategy. The levels of engagement as described by the IAP2 Spectrum are included below. :

<b>Inform</b>	To provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.
<b>Consult</b>	To obtain public feedback on alternatives and/or decisions
<b>Involve</b>	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered
<b>Collaborate</b>	To partner with the public in each aspect of decision making including the development of alternatives and identification of the preferred solution
<b>Empower</b>	To place final decision making in the hands of the public

## **2.4 Feedback and Evaluation**

A commitment to meaningful community engagement requires ongoing and regular communications with identified stakeholders.

Council commits to including as part of the engagement process, feedback and evaluation of its community engagement. Council may use a variety of methods to deliver this feedback depending on the Community Engagement objectives and goals established in the planning process.



# Community Engagement Strategy

Bathurst Regional Council



## Introduction

This plan outlines Bathurst Regional Council's commitment to working with its community in the ongoing future development of the Bathurst Region. The Community Engagement Strategy outlines how and to what service level, Council will build a meaningful long term relationship with the community it serves in terms of an involvement in decision making.

The Bathurst Region is identified as the community either living, visiting or working in the Bathurst Regional Council Local Government Area.

## Why Develop a Community Engagement Strategy?

Aside from it being a requirement under the NSW Government's Integrated Planning Process, a Community Engagement Strategy provides an opportunity for Council to review its consultation processes and develop tools and targets that will support a transparent governing environment. A community engagement strategy provides Council with a framework to develop meaningful dialogue and relationships with its community.

## Council's Vision and Mission

The development of Council's ***Community Engagement Guiding Principles***, the first step in the Community Engagement Process, is made with reference to Council's Vision and Mission Statements.

**BRC Vision**                    A vibrant regional centre that enjoys a rural lifestyle, the Bathurst Region achieves health and well-being through strengthening economic opportunities, planning for sustainable growth, protecting and enhancing our assets, and encouraging a supportive and inclusive community. A Region full of community spirit and shared prosperity.

**BRC Mission**                The equitable development and maintenance of services provided for the general health and wellbeing of the citizens of the Bathurst Region and the adjustment of these services to meet the changing needs.

A Community Engagement Strategy based on these principles works to further enhance the Council's strategic planning process. It provides a framework for decision making and standards to service delivery that are intended to inspire confidence and trust in the community that we will listen to and hear what the community has to say on important issues.

## Our Community Engagement Commitment

By adopting the Community Engagement Strategy, Council makes a commitment to conducting quality consultation and a willingness to actively engage the community in decision making and information processes.

A Community Engagement Strategy also ensures a consistent approach is taken by Council in relation to projects requiring community consultation and ensures the community is well informed about Council issues, strategies, projects or plans and has the opportunity for involvement in decision making and policy development.

## **Community Engagement Guiding Principles**

### **1. To provide genuine support for meaningful and effective consultation**

By recognising consultation as a valued part of strategic decision making.

### **2. To consult before making decisions**

By referencing the Community Engagement Strategy Council will ensure the right level of consultation is applied in any given situation. The Strategy does not give participants the power to make final decisions but to influence the process.

### **3. To provide feedback**

By establishing agreed standards of consultation at the start of every project Council will ensure all participants agree on a feedback process and are aware of any commitment made to ongoing communication.

### **4. Be representative**

By utilising the broad range of demographic and social profiling data available to Council we will ensure we consult with the right people at the right time engaging true representative samples of the community.

### **5. Don't over consult**

By accessing existing relevant research, databases and information as part of the engagement planning process, Council will ensure a free flow of information between Council departments that reduces the risk of wasting valuable resources including valuable community time.

## **Community Engagement Procedure**

After considering the Guiding Principles in the Community Engagement Policy the Community Engagement Procedure has been designed to provide a framework to guide Council's community engagement activities.

Procedures outlined in this strategy include;

1. Community engagement planning framework
2. Community Engagement Matrix
3. Feedback and Evaluation review

One of the greatest challenges of Local Government, is striking that balance between effective community consultation and limited resources. The Community Engagement Strategy provides a set of tools that will help coordinate Council's

consultation processes and limit the very real risk of over-communication provided by a more ad hoc approach.

This strategy is intended to add to the ongoing and regular consultation conducted by Councillors in their general roles as representatives of the community and by no means replaces that role.

### **Community Engagement planning**

By adopting this Community Engagement Strategy, Council is making a commitment to credible and competent planning of its community engagement activities.

In undertaking a consultation project it is imperative that:

- the aim and objectives of the project are clearly articulated
- stakeholders are identified
- determine the level of engagement (as guided by the IAP2) spectrum based on the complexity of the issue and the identified objectives
- determine the appropriate tools to use as part of the engagement process
- set clear expectations around what influence/input the community has on the issues, project or plan Council is seeking community input on
- Build in an appropriate level of evaluation as part of the of the engagement process

### **Community Engagement Matrix**

Council will use tools and approaches as identified in the International Association of Public Participation (IAP2) Spectrum, as defined below, to determine the appropriate level of engagement to be undertaken on identified projects, issues, strategies or plans. Council has also invested in the Your Say Bathurst website as an online community engagement portal. The website is one of the engagement tools now available to Council and can be used alongside a suite of other engagement tools to support community engagement activities, based on the level of engagement being undertaken.

# IAP2 Spectrum of Public Participation



	<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>	<b>Empower</b>
<b>Public participation goal</b>	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
<b>Promise to the public</b>	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
<b>Example techniques</b>	<ul style="list-style-type: none"> <li>▪ Fact sheets</li> <li>▪ Web sites</li> <li>▪ Open houses</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public comment</li> <li>▪ Focus groups</li> <li>▪ Surveys</li> <li>▪ Public meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Workshops</li> <li>▪ Deliberative polling</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen advisory committees</li> <li>▪ Consensus-building</li> <li>▪ Participatory decision-making</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen juries</li> <li>▪ Ballots</li> <li>▪ Delegated decision</li> </ul>

## Feedback and Evaluation Review

A commitment to meaningful community engagement requires ongoing and regular communication with your target community/sample participants.

Council commits to including as part of that process, feedback and evaluation of its community engagement at all levels. Council may use a variety of methods to deliver this outcome depending on available resources and the Community Engagement Objectives established in the planning process.

This could include:

- Participant survey conducted at conclusion of engagement process
- Annual Council Community Survey (random sample)
- Specific Online survey through Council website
- Ratepayers newsletter direct mail to residents
- Written submissions
- Online participants forum

## Conclusion

Council has made a commitment to developing a relevant and comprehensive Community Engagement Strategy. In adopting the Community Engagement Policy and associated Strategy Council makes a commitment to recognizing community engagement as a strategic tool in its decision making processes.

The aim of the Strategy being to provide guidance to Council in terms of ongoing community engagement and make a commitment to the community that outlines its intended service levels and a process for meaningful consultation.

The Community Engagement Strategy provides the framework to enable Council to make a genuine improvement in coordinating its community engagement practices. It is intended to compliment the activities of Councillors who are the elected representatives of the community, and have as part of their mandate, a role to play in consulting with the community through various formal and informal channels.

Community engagement is relevant across all Council's departments and operations and Council reports via its Council Business Paper each month on the level of engagement activities being undertaken and reported to the community via the Council meeting.

<b>POLICY:</b>	COMMUNITY SERVICES – PART GOVERNMENT FUNDED
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	16.00031
<b>OBJECTIVE:</b>	To establish Council’s position with respect to Community Services that are partly funded by the State Government and the term of that service upon cessation of the Government Grant

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That in circumstances where the whole cost, or part of the cost as agreed by Council, is met by way of government grant, Council may agree to undertake the provision of the particular service, provided that upon advice that the government grant will no longer be available Council terminate the service upon the date the grant funds cease to be available.

<b>POLICY:</b>	COUNCIL STAGED EVENTS – RECYCLING SERVICES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.2.5 Council 19 May 2021 Resolution No: ORD2021-151 Council 16 June 2021 Resolution No: ORD2021-169  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No.11477
<b>ORIGINAL ADOPTION:</b>	Director Engineering Services Report #1 Council 17 February 2010 Minute Book No 10871
<b>FILE REFERENCE:</b>	14.00007
<b>OBJECTIVE:</b>	To recycle waste materials generated at Council staged events

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That Council provide recycling services at Council staged events, subject to existing contractual obligations and funding constraints, and

That Council encourage community sporting event organizers to introduce recycling services at their events.



**POLICY:** COUNCIL DEVELOPMENTS CONFLICT OF INTEREST POLICY

**DATE ADOPTED:** Director Corporate Services & Finance Report #8.3.6  
Ordinary Meeting of Council 19 April 2023  
Resolution Number: ORD2023-93

**FILE REFERENCE:** 02.00018

**OBJECTIVE:** This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

## 1. INTRODUCTION

This policy is the Council Developments Conflict of Interest Policy which relates to conflicts of interest for Council-related development throughout the development process.

## 2. DEFINITIONS

In this policy:

**application** means an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent

**council** means Bathurst Regional Council

**council-related development** means development for which the council is the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority. For clarification, this Policy does not include private applications lodged by Councillors or staff.

**development process** means application, assessment, determination, and enforcement

**the Act** means the Environmental Planning and Assessment Act 1979.

**controversial development** means a development that is likely to attract disagreement from a significant number of residents.

A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.

Notes included in this policy do not form part of the policy.

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### 3. CONTEXT

Councils are development regulators. But they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

This policy sets out Council's approach to identifying and managing any conflicts of interest deriving from council-related development.

### 4. PROCESS FOR IDENTIFYING AND MANAGING POTENTIAL CONFLICTS OF INTEREST

- a) Identifying whether a potential conflict of interest exists, assessment of level of risk and determination of appropriate management controls
- i. Development applications lodged with Council that are council-related development are to be referred to the General Manager, or their delegate, for a conflict-of-interest risk assessment.
  - ii. The General Manager is to:
    - a. assess whether the application is one in which a potential conflict of interest exists,
    - b. identify the phase(s) of the development process at which the identified conflict of interest arises,
    - c. assess the level of risk involved at each phase of the development process,
    - d. determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies implemented by the Council such as those listed under 'Management controls and strategies' below, and the outcome of the general manager's assessment of the level of risk involved as set out clause 6(2)(c) of the policy,  
Note: The General Manager could determine that no management controls are necessary in the circumstances.
    - e. document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.
- b) Management controls and strategies
- i. The following management controls may be applied to different stages of development approval for council-related development, based on an assessment of risk by the General Manager. The risk assessment could for example include consideration of the type of development (non-controversial small-scale development, development of a certain value with/without a commercial interest, controversial development), or the capital investment value of the proposed development.
    - a. the assessment and determination of an application for council-related development
      - i. assessment and/or determination of an application could be undertaken by council staff under delegation – this might be appropriate if the proposal is considered to be a low-level risk or non-controversial. For more controversial projects, this might only be possible if strict role separation controls are imposed.

- ii. The application could also be referred for external assessment with a recommendation of a determination for Council's consideration to either:

- a consultant.
- Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council

It should be noted that the Determination of the application would need to be undertaken by Council at an Ordinary Council Meeting.

The involvement of an external third party might be appropriate for development where council has a commercial interest in the land, or the development is seen to be a political priority for the council.

- b. the regulation and enforcement of approved council-related development may include:

- i. Engagement of a private certifier
- ii. Publication of certificates issued under Part 6 of the Act on the NSW Planning Portal
- iii. Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council
- iv. Reporting of key milestones to the full council.

Note: For example, council will enter into a shared services arrangement with a neighbouring council.

c) Development Not Requiring Management Controls to be Applied:

- a. Exempt developments
- b. Commercial fit outs and minor changes to commercial buildings
- c. Internal alterations or additions to buildings that are not a heritage item
- d. Advertising signage
- e. Minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
- f. Development where the council might receive a fee for the use of their land.
- g. Community groups on Council land
- h. Subdivisions comprising boundary adjustments, provision for public facilities and/or assets, road widenings etc and community land used for a public purpose.
- i. Temporary structures and/or the use of land for community events.

**POLICY: CULTURAL AND COMMUNITY SERVICES POLICIES**

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Policies pertaining to the Department of Cultural and Community Services are contained within the Policy Manual Cultural and Community Services Department.

Copies of these Policies are available from the Cultural and Community Services Department.

The Policies included in the Manual are as follows:

As at 23 November 2021

<b>Policy</b>	<b>Date Adopted</b>
Bathurst Memorial Entertainment Centre Programming	20 April 2016
Bathurst Public Art	17 April 2019
Central Business District (CBD) Closed Circuit Television (CCTV)	May 2023
Children's Services	July 2023
Collections Care and Preservation Policy	15 April 2020
Collections Acquisition and Deaccessioning Policy	15 April 2020
Museums Collections Management Policy	15 April 2020
Museums Loans Policy	15 April 2020

### 3.4. D

<b>POLICY:</b>	DEPUTATIONS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023 - 269
	Director Corporate Services & Finance's Report #8.3.5 Council 22 September 2021 Resolution No ORD2021-330 Council 20 October 2021 Resolution No ORD2021-349
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	11.00005
<b>OBJECTIVE:</b>	To provide operational guidelines for deputations wishing to speak to Council

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Community/Business groups seeking to discuss specific matters with Council may attend a Councillors Meeting with Community Groups/Representatives session. Details of the matter to be discussed shall be lodged with the General Manager prior to the closing time for preparation of the Agenda for the meeting.

A report on the Meeting, shall be prepared for the Agenda of the next Ordinary Meeting of Council.


Where the matter is, in the Mayor's opinion, one of urgency; the Mayor shall meet with the deputation to discuss the issues involved.

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**POLICY:** DEVELOPMENT AND MANAGEMENT OF POLICIES

**DATE ADOPTED:**

**ORIGINAL ADOPTION:** Authorised by the General Manager:

	15 Aug 2023
David Sherley	Date

**FILE REFERENCE:** 11.00039

**OBJECTIVE:** To define the process for making new policies, updating policies and revoking obsolete policies.

**Scope:**

The Policy applies to Councillors and staff, however excludes Policies for Childrens Services.

**Definitions:**

Council Policy	Is a formal statement of Council's position covering the principles it will adopt in serving the community and implementing its statutory responsibilities.
Delegations Register	Lists authorities delegated by Council to the General Manager and in turn, those delegations the General Manager has made to officers.
Executive Leadership Team (ELT)	<p>The role of the Executive Leadership Team (ELT) is to:</p> <ul style="list-style-type: none"> <li>• Develop strategy for Council and Management</li> <li>• Approve Daft Council policies before presentation to Council</li> <li>• Approve Internal Management policies</li> <li>• Oversee the Council's corporate governance and manage issues that impact across directorates.</li> </ul> <p>Members include the General Manager and all Directors.</p>
Internal Management Policy (IMP)	<p>An Internal management policy is an internal organisational position statement approved by ELT, regarding the 'day to day' management of Council in line with the strategic plans, programs and policies of Council. This includes:</p> <ul style="list-style-type: none"> <li>• Exercising any functions of Council that are delegated to the General Manager under section 378 of the <i>Local Government Act (the Act)</i></li> </ul>

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	<ul style="list-style-type: none"> <li>Functions of the General Manager's office in section 335 of the Act that does not require a resolution of Council.</li> </ul>
Procedures	Provide the steps to carry out the objectives of policies. Procedures can apply to both Council policies and Internal management policies.
Policy Owner (PO)	Is the officer assigned ownership of a Council policy, Internal Management Policy or procedure. As the subject matter expert, the Policy Owner develops new policies or amends existing policies where required.
WHS polices	WHS policies are covered by the <i>Work, Health &amp; Safety Act 2011 and regulations</i> .

### Criteria of a Council Policy:

A Council policy is established by resolution of Council at its Ordinary meetings.

It is distinguished from Internal Management Policies and procedures in the following manner:

Description and criteria		Council Resolution	Operational Approval	
			ELT	GM
<b>Council policy</b>	<p>A Council policy meets one or more of the following criteria:</p> <ol style="list-style-type: none"> <li>Required by law to go before Council and public exhibition <ol style="list-style-type: none"> <li>Is a policy which is required by the <i>Local Government Act 1993</i> (the Act) to be placed on public exhibition, including: <ol style="list-style-type: none"> <li>Local approvals policy</li> <li>Civic office expenses &amp; facilities policy</li> <li>Code of meeting practice</li> </ol> </li> <li>Is a requirement of any other NSW legislation.</li> </ol> </li> <li>Functions that cannot be delegated to the General Manager <ol style="list-style-type: none"> <li>Relates to the General Manager under section 377 of the Act, or any other function that has not been delegated to the General Manager by Council resolution.</li> </ol> </li> </ol>	✓	✓	
<b>Internal management policy</b>	<ul style="list-style-type: none"> <li>Relates to the functions defined under section 335 of the Act, for the day to day management of Council</li> <li>Relates to any function that has been delegated to the General Manager under section 378 of the Act. These functions are listed in Council's Delegations register.</li> <li>WHS policies are an exception to the approval process for IMPs as they are</li> </ul>		✓	✓



	approved by the ELT with final authorisation by the General Manager.			
<b>Procedures</b>	- Procedures are approved by ELT Officers to provide the steps to carry out the intent of either Council or Internal management policies.		✓	✓
<b>WHS Procedures</b>	- WHS procedures require ELT approval.		✓	✓

### Creating a new policy or amending existing policies:

When there is a need for a new policy or the amendment of an existing policy, the relevant Director will assign a Manager as the policy owner – known as the Policy Owner.

The Policy Owner will notify the Governance section when they start the process to create a new policy or amend an existing policy. Governance officers will advise whether similar or complementary policies are being developed in other areas of Council, and direct them to the procedure to create and review policies.

The Policy Owner will ensure any proposed new policy or policy amendments:

- Follow the procedure to create and review policies
- Is presented in the standard policy template format using plain English
- Does not conflict with any existing policy, and if it does, recommends the necessary amendments or rationalisation of all affected policies
- Considers any legal and any financial or administrative implications
- Is authorised by the relevant director for review, prior to proceeding to ELT
- Has been reviewed and approved by ELT

All Internal management policies owned by the HR department will generally be referred to the staff consultative committee before proceeding to ELT for approval.

Following approval by ELT, Council policies will be presented to Council for adoption.

### Public exhibition of Council policies:

Council policies are to be placed on public exhibition in accordance with legislative requirements. Council may resolve to place any other Council policy on public exhibition.

### Minor amendments to policies:

The General Manager can approve minor amendments to IMP's if, in their opinion, the amendment does not:

- Change the intent of the policy
- Impact upon the community
- Result in a conflict with any existing policy
- Have material legal or financial implications

Amendments minor in nature include the following:

- Changes to the format of the policy or the policy name
- Changes to Policy Owners or those responsible for implementing the policy as a result of an organisational restructure/realignment.

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- Correction of errors, grammar and punctuation in the policy, including but not limited to reference to other policies or documents or legislation.

Should the amendment be of a major nature, this would be reported to:

- Council Policy: Council Meeting
- Internal management policy: ELT

### **Conflicting policies:**

If policies conflict, the later policy will prevail to the extent of any inconsistency, unless there is a legislative provision/instrument that overrides.

Policy Owners must act to resolve all conflicts that arise between policies, as soon as practicable. This includes recommending the necessary amendments or rationalisation of all affected policies to resolve the conflicts.

### **Amending and revoking policies:**

Other than as outlined above, a Council policy can only be amended or repealed by a resolution of Council. An Internal Management Policy can only be amended or repealed by ELT.

### **Timing of reviews:**

Every policy must contain a review date. This is the date by which the policy is to be reviewed by the Policy Owner to determine whether it will remain appropriate until the next review date.

A review will not necessarily result in amendment to a policy.

The criteria to determine review dates are as follows:

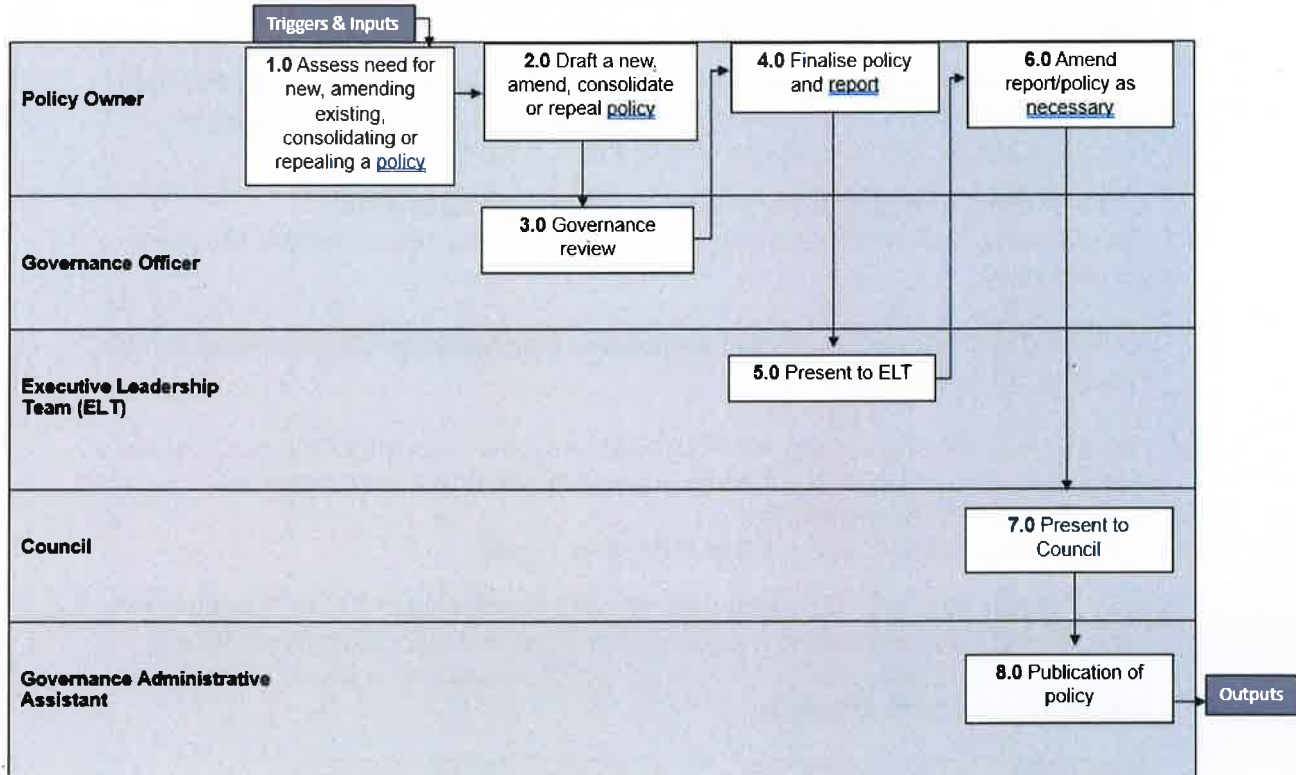
- Policies without specific legislative requirements are to be reviewed within 2 years of adoption or last amendment.
- Where legislation requires a review of the policy within a certain period, or by a certain date, the review date shall be before the end of that period or that date.

Where a policy becomes inappropriate to the operations of Council, or non-compliant due to a change in legislation, the policy shall be amended as soon as possible.

The Corporate Governance section will monitor the review of the policies and advise Policy Owners that a policy is due for review providing 90 day's notice. If the policy review remains incomplete for 30 days past the review due date, a notification will be sent to the respective Director for action.

## Procedure for Creating or amending policies:

The procedure to create and review policies is:



### Procedure

#### **1.0 Assess need for new, amending existing, consolidating or revoking a policy** (Policy Owner)

- Gather all relevant information on changes in legislation and community priorities that may require a new policy or amendment of an existing policy.
- Check for any related current council policies, ensuring that there is no duplication or conflict between any existing policies. Liaise with Manager/Director if conflict appears.

NOTE: Consult with the relevant Manager/Director to determine if any similar policies can be consolidated. Contact Governance who will advise if any similar policies exist.

- Check whether the policy can be repealed if the content is covered elsewhere, for example by a delegated authority.
- Discuss and determine with the relevant managers, whether to draft new, amend, consolidate, or repeal a policy.

**2.0 Draft a new, amend, consolidate or revoke policy (Policy Owner)**

- a) Access the standard policy templates on Content Manager and input the text for a new policy or re-draft the policy, as necessary, using concise and clearly worded plain English text.
- b) Check the policy against any related council policies. Add any related policies created since the last policy review.

NOTE: Check the policy register to see if any other policies relate to your policy and should be referenced. All Council policies can be found in Content Manager. All Internal Management Policies can also be found in Content Manager.

- c) Check that references to any legislation is current and up-to-date.
- d) Consider any legal, financial, administrative or other implications. Amend the policy as necessary.

NOTE: Where there are significant implications than these should be covered in the report to ELT and Council.

- e) Review the policy against any conflicting policies (previously identified) and prepare supporting information for the recommended amendments, consolidation or revocation of all affected policies.
- f) Forward the proposed policy to Governance for review.

NOTE: Any STAFF POLICY (owned by HR) is to be referred to the staff consultative committee (SCC) before referral to Governance (consult with Governance for any feedback on the policy prior to going to SCC). Please provide approval of the policy from staff consultative committee.

**3.0 Governance review (Governance Officer, Manager Corporate Governance)**

- a) Review the policy and recommend any changes necessary.
- b) Review and check any recommendations to rescind the policy is sound.
- c) Refer the policy for legal review where appropriate.
- d) Return amended policy document, or response to the rescinding of the policy, to policy owner.

**4.0 Finalise policy and report (Policy Owner)**

- a) Make any final revisions to the policy

NOTE: For STAFF POLICIES, assess changes made and refer back to SCC if required.

- b) Prepare memo to ELT and/or draft report to Council for a council policy. Submit memo and policy through your Director, to Executive Leadership Team for endorsement.

NOTE: The memo should cover the reasons for the new policy, any amendments made, supporting reasons for the consolidation of policies or reasons supporting the revocation of a policy. Address significant legal, financial, administrative, or other implications. Copies of all policies referenced are to be attached.

NOTE: Internal management policies are approved by ELT and reported to Council as information only (if required).

**5.0 Present to ELT (Executive Leadership Team)**

- a) Determine if the new, amended, consolidated or revoked Council policy is endorsed to proceed to Council for resolution.
- b) Determine if the new, amended, consolidated or revoked internal management policy is approved, and if approved, DCSF to notify Governance of approval to facilitate publication/revocation of the policy.
- c) Return to responsible officer for amendment or finalising report to Council.

**6.0 Amend report/policy as necessary (Policy Owner)**

- a) If required, amend the report and/or policy as per ELT recommendation
- b) Notify Governance of internal management policies approved by ELT. Governance will prepare a memo and circulate it to Councillors and directorates for information, attaching a copy of the policy.
- c) For Council policies endorsed by ELT, submit report and policy to Manager/Director/General Manager for approval to proceed to Council for resolution.

**7.0 Present to Council (Council)**

- a) Consider the recommendations regarding the council policy including requirement for public exhibition.

NOTE: Where public exhibition is not required or no submissions received go to step 7.0(c).

- b) Consider any submissions by the general public, tabled in a further report to Council.

NOTE: The Policy Owner to organise public exhibition of the policy. Prepare a further report to Council detailing submissions received and any suggested amendments to the policy.

- c) Resolve to adopt the new policy without changes, amend, reject or rescind it.

**8.0 Publication of policy (Policy Owner)**

- a) Make any amendments to the council policy as resolved by Council (Policy Owner)
- b) Forward the council policy to Governance for publication on Council's website. Intranet and updating on Council's policy register.
- c) Forward the approved Internal Management Policy to Governance for publication to Content Manager.

**Triggers & Inputs**

TRIGGERS	
Starts	Frequency
2 years after a policy was created or reviewed	Every 2 years
Change in legislation or any other factor	adhoc

INPUTS		
Input	From Process	How Used
Governance advises responsible officer that a 2 year review is required	Create and amend policy	Policy review

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**Outputs & Targets**

<b>OUTPUTS</b>		
<b>Output</b>	<b>To Process</b>	<b>How Used</b>
Policy review completed, approved by Council/ELT and published. Policy register updated.	Create and amend policy	New policy is in use

<b>PERFORMANCE TARGETS</b>	
<b>Measure</b>	<b>Target</b>
Policy successfully created or reviewed and withdrawn or published	All policies in the policy register reviewed over a 2 year cycle

<b>POLICY:</b>	DONATIONS - SECTION 356 (a) Annual Submissions Based Support (b) Special Financial Consideration
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 1 July 2015 Council 15 July 2015 Minute Book No. 12059  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	18.00004
<b>OBJECTIVE:</b>	To provide a mechanism to support individuals and groups such that the functions of Council are achieved in terms of social welfare, cohesion or image, through financial or "in-kind" support, or through the discounting of fees.

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Section 356 of the Local Government Act (1993) states:

1. *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.*
2. *A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days public notice of the Council's proposal to pass the necessary resolution has been given.*
3. *However, public notice is not required if:*
  - (a) *The financial assistance is part of a specific program; and*
  - (b) *The program's details have been included in the Council's Draft Operating Plan for the year in which the financial assistance is proposed to be given; and*
  - (c) *The program's proposed budget for that year does not exceed 5% of the Council's proposed income from the ordinary rates levied for that year;*
  - (d) *The program applies uniformly to all persons within the Council's area or to a significant group of persons within the area.*

## DEFINITIONS

### Community Groups, Charities and others

Local organisations applying for donations should generally be non-profit, have significant local membership and a community based charter.

### Individuals

Those individuals seeking a donation should either reside, work or have some definite connection to the Council area to be eligible.

## GUIDELINES

### Part A – Annual Submission Based Support

#### Community Groups and Charities

Local organisations applying for assistance should generally be non-profit, have a significant local membership and a community based charter. A proposed recipient who acts for private gain is not ineligible for assistance, however, the activity pursued should be for the benefit of the overall community and achieve the goals of the Council.

Council shall call for applications for an annual submission from community groups, charities and others seeking assistance (including financial, or “in-kind” and discounting of fees) for the coming year and these applications should be received during January/February each year for inclusion in the budget calculations for the next financial year. A report will be presented to Council as part of the annual Operational Plan.

Each applicant shall provide:

- (a) information about their organisation, including purpose of organisation and membership
- (b) financial information about their organisation
- (c) If an event, budget for the event
- (d) Contribution to the Bathurst community
- (e) Details of other sources of public funding
- (f) Details of any previous funding from Council

### Part B – Special Financial Considerations

Applicants will only be considered where the group or individual can demonstrate that they were unable to make a submission as provided for in Part A.

Requests for special financial consideration by individuals and groups will be considered by Council if they satisfy the guidelines. Documentary evidence must be provided by the individual or group to verify the use of the funds donated or they must be returned to Council. A report will be provided to Council for its consideration.

Each applicant shall provide:

- (a) Reason why application was not submitted by due date
- (b) information about their organisation, including purpose of organisation and membership
- (c) financial information about their organisation



- (d) If an event, budget for the event
- (e) Contribution to the Bathurst community
- (f) Details of other sources of public funding
- (g) Details of any previous funding from Council

### Part C – Recognition of Council's Funding

Council's donation must be publicly acknowledged.

### Part D - Miscellaneous Donations

#### 1. School Magazines/ Citizenship Prizes

\$60 donated annually to each of the schools in the Council area towards the cost of printing the school magazine and up to \$60 per school for their annual presentation night.

#### 2. Schools and Churches – DA Fees – Advertising Signs

That Council donate the Development Application fee to Schools and Churches when a Development Application is lodged for a sign to display the name of the school or Church.

#### 3. HACC Centre Meeting Room – Booking Fees

The room is available free of charge to eligible groups who are involved in the operation of the HACC Centre.

The list of eligible groups will be determined by Council from time to time. The present list is:

Bathurst Regional Council  
 Bathurst Community Day Centre (Inc)  
 Home Care Service  
 Meals on Wheels

For Bathurst Regional Council area;

- (A) Schools and University – being a recognised and accredited Education institution or;
- (B) Local Community Organisation – Non-funded, non professional organisations or charities where monies raised are dispersed into the local community,

The following discounts will apply:

- (i) For Category A – a 40% discount on the Scheduled Fee and
- (ii) For Category B - a 20% discount on the Scheduled Fee

In extreme circumstances, non-profit organisations and community groups may apply for a greater refund of the booking fees. Applications for such refunds must be in writing and will be considered by the Council. In **all** cases the prescribed booking fees must be paid in advance before the Room is used.

#### 4. Art Gallery – Usage by Local Groups (Fees)

The Gallery may be available for exhibition by local groups such as educational bodies, associations etc. Such requests will be subject to Councils operational procedure for use of the gallery and upon application, the fee may be waived.

Where functions are co-sponsored by BRAGS, and another organisation or group, the co-host organisation or group may be required to pay a fee (subject to above). BRAGS is not required to pay a fee when co-hosting an event with the Gallery, or hosting an event to raise funds for the Gallery.

#### 5. Art Gallery/Library Meeting Room – Booking Fees

The Room is available free of charge to eligible groups who are directly involved in the operation of the Library or Art Gallery.

The list of eligible groups will be determined by Council from time-to-time. The present list is;

Bathurst Regional Council  
 Bathurst Regional Art Gallery Society  
 Art Gallery Guides  
 Family History Group of Bathurst Inc

For Bathurst Regional Council area;

- (A) Schools and University – being a recognised and accredited Education institution or;
- (B) Local Community Organisation – Non-funded, non professional organisations or charities where monies raised are dispersed into the local community,

The following discounts will apply:

- (iii) For Category A – a 40% discount on the Scheduled Fee and
- (iv) For Category B - a 20% discount on the Scheduled Fee

In extreme circumstances, non-profit organisations and community groups may apply for a greater refund of the booking, security and public liability fees. Applications for such refunds must be in writing and will be considered by the Council. In **all** cases the prescribed booking fees must be paid in advance before the room is used.

#### 6. Bathurst Memorial Entertainment Centre - Hire

For Bathurst Regional Council area;

- (A) Schools and University – being a recognised and accredited Education institution or;
- (B) Local Community Organisation – Non-funded, non professional, organisations or charities where monies raised are dispersed into the local community,

The following discounts will apply:

- (v) For Category A – a 40% discount on the Scheduled Fee and
- (vi) For Category B - a 20% discount on the Scheduled Fee

That Council charge the Bathurst Eisteddfod Society the normal fees applicable to the hire of the venue and further that Council donate to the Eisteddfod Society under Section 356, the difference between the total fee charged and a set fee of \$10,000 per annum to be paid by the Eisteddfod Society.

That Council provide a 20% discount of the scheduled local organisations theatre hire fee to Bathurst Carillon Theatrical Society.

That Bathurst Regional Youth Council be provided with a subsidy of up to \$2,000 per annum for the use of facilities at BMEC. This amount to be annually increased by CPI.

#### 7. Waiving of Excess Water Accounts – Flood Prone Properties

Council waive excess water accounts in respect of flood prone premises where the water is used to clean up after flooding.

#### 8. Carrington Park – Promotion – Grandstands

Council provide temporary grandstands at Carrington Park for crowds anticipated to be in excess of 5,000 people funded from the Carrington Park Vote, subject to the provision of substantiated material by the promoters.

The promoter's substantiated documentation must include:

1. Evidence of past events with crowds in excess of 5,000 people;
2. Evidence of promotion of an event that provides a genuine expectation of in excess of 5,000 people; or
3. Evidence of ticket sales substantiating 5,000 spectators.

#### 9. Use of Council Plant and Equipment

Where Council agrees to hire its plant and equipment or to make it available to community groups as approved by Council, such plant and equipment shall only be hired or made available provided the regular or relief operator operates such plant and equipment.

#### 10. Water – Residents who use Home Dialysis or Similar Machine

That a further allowance of 250 kilolitres per year be granted to residents who require the use of a home dialysis or similar machine, subject to provision of a Doctor's certificate advising of the necessity of home usage of such equipment which requires high water usage.

#### 11. Garbage – Residents who use Home Dialysis or Similar Machine

That residents who use Home Dialysis or similar machines, include the waiving of an additional garbage service fee to assist with additional waste removal.

#### 12. Policy for Fun Runs, Rallies and Sporting Events

- (1) All events are categorised in one of five ways:
  1. Commercial/Semi-commercial
  2. Community/Charity
  3. Sporting Contests
  4. Large (greater than 150 visitors)
  5. Council budgeted
- (2) When required, Council shall supply and install barricades, except where Council is satisfied that the organisers have sufficient experience in the standards of barricade placement appropriate to the particular situation, then Council will supply only;
- (3) Any Council plant, labour and materials provided for Category 1 and 5 events shall be charged at actual cost;

- (4) Any Council plant, labour and materials up to \$500 shall be donated to Category 2, 3 and 4 events, with any costs over \$500 charged at full cost to the organisers;

In order for the above fee structure to be self-regulating, a definition of each Category Event is required. In this regard, Categories 2, 3 and 5 are self-explanatory. To qualify for Category 4, Organisers must show, that more than 150 visitors will be attracted to the City. An event will be deemed Category 1 if it is a private money generating venture.

Council will make the facilities at the top of Mount Panorama available for school sporting events free of charge.

### 13. Development Application Fees – Developments on Council Properties

Development application fees automatically be waived for developments by community/sporting groups on Council property.

### 14. Pool – Community and School Users

Any subsidies for the Bathurst Aquatic Centre will be as adopted in the Council's Revenue Policy for that year.

### 15. Clean Up Australia Day

Council shall make available a truck for removal of litter collected, to the organisers of Clean Up Australia Day activities, provided the vehicle is operated by volunteer Council staff.

### 16. Food Inspection Fees – Local Community Groups

That local community groups eg sporting bodies, schools, churches etc operating food premises at Mount Panorama, Kings Parade and the Royal Bathurst show be inspected on each day of operation and be charged for only one inspection unless major matters of non-compliance require follow-up at subsequent inspections. The fee to be charged to be in accordance with Council's Revenue Policy. And further, that all non-local commercial food operations be inspected each day of operation and a fee charged for each inspection in accordance with Council's revenue policy.

### 17. Anzac Day

Bathurst – provision of a number of barricades and no parking signs which are utilised by the RSL's own traffic control and the Police.

Rockley – detour to be erected for the short service to be held in Stevens Park.

Trunkey Creek – detour to be erected for service (usually held prior to Anzac Day).

### 18. Annual Donations:

- Monkey Hill UHF Radio Repeater Association Inc - \$800 towards the cost of public risk insurance.
- Sofala & District Agricultural & Horticultural Show Society Inc - \$350 to assist with improvements.
- Sofala Progress Association - \$600 for cleaning toilets in Sofala.
- Lions Club of Bathurst - \$2,000 towards cost of purchasing Flags for Evans Bridge (Funded from Promotion Budget)

## 19. Donations - Loans to Service Clubs, Sporting Clubs and Non-Profit Organisations

Council's functions are detailed in Chapter 5 of the Local Government Act (1993) and, in particular, section 23 states:

*A council may do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions.*

### GUIDELINES

1. The council may lend money to any Service Club, Sporting Club or Non-Profit Organisation, which is not conducted for private profit, which has its purpose, the provision of one or more of the following:
  - \* community services and facilities
  - \* public health services and facilities
  - \* cultural, educational and information services and facilities
  - \* sporting, recreational and entertainment services and facilities
  - \* environment conservation, protection and improvement services and facilities
  - \* waste removal, treatment and disposal services and facilities
  - \* pest eradication and control services and facilities
  - \* public transport services and facilities
  - \* storm water drainage and flood prevention, protection and mitigation services and facilities
  - \* fire prevention, protection and mitigation services and facilities
  - \* land and property development
  - \* housing
  - \* industry development and assistance
  - \* tourism development and assistance
  
2. A rate of interest will be charged on the loans that is equivalent to Council's current borrowing rate plus 1% (this being the loan administration fee). The interest will be charged on the amount outstanding at the end of each month in arrears.
 

Any reduction in the rate of interest charged, will only be by way of a Section 356 contribution approved by a resolution of Council.
  
3. The loan shall be used for the purpose of:
  - (a) constructing or improving facilities for use in connection with the activities of the organisation or club; or
  - (b) for the erection or improvement of buildings associated with or incidental to those facilities, on lands which are owned by, vested in, or under the care, control and management of, the Council or of which the club, organisation or governing body is the owner or lessee.

4. All applications for loans must include details of:
  - (a) Financial position of the Club/organisation
  - (b) How repayments are to be met
  - (c) Credit references (if deemed appropriate by Council)
  - (d) Name of Organisation (including details of principles)
  - (e) Address of Organisation
  - (f) Purpose of Organisation and reason for the loan request
  - (g) Articles of Association or Constitution are to be provided
  - (h) Public Liability Insurance
  - (i) Projected current and future use of community facility
  
5. Council at all times reserves the right to:
  - (a) Obtain a credit reference from the Credit Reference Association
  
  - (b) Approved or Disapprove any application it receives on any grounds that the Council deems appropriate
  
  - (c) Call in any loan at any time:
    - (i) if the repayment schedule is not adhered to
    - (ii) the purpose of the club or organisation ceases to comply with the purpose(s) listed in clause 1, or
    - (iii) the club or organisation ceases to exist or is conducted for a private profit.
  
6. The interpretation of this clause is solely at the discretion of Council.

## 20 Rates – Village Halls

The amount of rates levied annually is to be donated to the Village Halls, in recognition of their value to their local communities, the recipients being:

Rockley School of Arts Hall  
 Sofala Progress Association Hall  
 The Lagoon School of Arts Hall  
 Trunkey Church of England Hall

## 21. Senior Sports Persons

### State Representation

- (a) For all persons selected in a State ie. NSW Team, financial assistance in the amount of \$100 is given to each person selected in a State Team.
- (b) For any Team selected to represent NSW State a total amount of \$500 be given to the Team to represent the State.

### National Representation

- (a) For all persons selected in a National Team, financial assistance in the amount of \$200 is given to each person selected in a National Team.

- (b) For any Team selected to represent Australia, a total amount of \$1000 be given to the Team to represent the Nation.

#### General Compliance

For a person or team to be eligible for these grants they must comply with the following:

- (a) The person is 18 years of age and over.
- (b) Be a resident of Bathurst.
- (c) Be a representative of the Local Sporting Organisation as controlled by the Bathurst Sports Council.
- (d) Obtain a letter from the State or National Organisation supporting their selection in the State or National Teams.
- (e) Undertake to publicly acknowledge Council as a financial sponsor of their attendance at the State or National Titles.

### 3.5. E



<b>POLICY:</b>	EMAIL AND INTERNET
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
	Director Corporate Services & Finance's Report #1 Policy 7 November 2007 Council 21 November 2007 Minute Book No. 10284
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	03.00065
<b>OBJECTIVE:</b>	To enhance the timely sharing of information, improve staff productivity, and increase customer accessibility to Council

## **PROTOCOLS FOR USE OF COUNCIL RESOURCES FOR INTERNET AND EMAIL**

### **1. Access**

Access to the use of Council resources for internet and emails is to be made available to all staff, Councillors and authorised persons who require such access to support the carrying out of official duties and who have access to a computer that is connected to the Council computer network.

Access to individual mailboxes/email addresses should normally be restricted to the individual and the system administrator. However, broader access to a mailbox/email address may be organised when such access adds value to the business function and is authorised by the Manager. Staff who are absent due to leave must organise delegated access to their mailbox/email address prior to commencing on that leave. With the authority of a Manager or Director, such delegated access should be controlled and limited to one person, unless the Manager or Director instructs there to be more.

A copy of this protocol must be signed by the staff member prior to a network login being created and placed in his/her personal file. See Attachment 1.

### **2. Acceptable Uses**

The following uses are acceptable and encouraged:

- Investigations, research and support of vendor's products. This may include the retrieval and distribution of information, technical material, support documentation or promotional material that may assist users in their daily operations.
- Peer group communications including retrieval and distribution of electronic messages, documentation, contributing or participation in group forums.
- Use of network resources for personal or academic reasons during the staff members' own time. Personal use does not extend to any activities that may provide personal commercial gain or interfere with other users work for the Council.

### **3. Unacceptable Uses**

The following uses are unacceptable and are expressly prohibited:

- Conducting activities such as unsolicited distribution of advertising material.
- Using the network for conducting personal business transactions.
- Creating, transmitting or knowingly activating a computer virus.
- Creating or distributing chain letters, personal advertising etc to individuals or lists of individuals so as to cause a nuisance or congest the Council's network.
- Using an account owned by another user who is authorised for internet access to gain unauthorised access to the internet.
- Allowing unauthorised users to access the internet or email using your login I.D.
- Forging email messages.
- Posting anonymous messages.
- Personal use of the network for obtaining illegally distributed or unlicensed software.
- Sending or requesting messages or documents that are inconsistent with Council's policies.
- Using the internet to access store or distribute pornographic, racist, sexist, inflammatory or otherwise offensive material.
- Misrepresenting the Council or uses that are considered malicious or unethical.
- Performing excessive downloads from the internet.
- Uses that may violate any Federal or State laws such as copyright infringement.
- Emails between Councillors and Staff
- Emails that interfere with the ability by others to conduct Council business
- Posting messages and/or reading other posts on social networking sites (Facebook, Twitter etc) that are not related to Council business.

#### 4. Email Address Format

The format for Council email addresses incorporates the user name and a domain name.

The user name is set up by the Information Services section. Two categories have been developed, one for internal addressing and one for external addressing.

The internal address category uses the first name followed by the full family name (i.e. "Fred Bloggs").

The user name and domain name combine to form the internal email address. Individual internal email addresses are (as an example):

Fred Bloggs/BathurstCC@BathurstCC

The external address category uses the first name followed by a full stop followed by the family name as the user name. The domain name is "bathurst.nsw.gov.au".

Therefore, Council's email address is:

[council@bathurst.nsw.gov.au](mailto:council@bathurst.nsw.gov.au)

and the example user name would be:

[peter.fawkes@bathurst.nsw.gov.au](mailto:peter.fawkes@bathurst.nsw.gov.au)

#### 5. Standards For Outbound Email

Outbound email should include a standard footer (signature file) that incorporates the sender's name, email address, position, organisation, organisation email address, direct phone number and statement relating to the employing body's opinions.

For example:

Fred Bloggs  
 Miscellaneous Services  
 Bathurst Regional Council  
 158 Russell Street Bathurst NSW 2795  
 Phone: 02 6333 6xxx  
 Fax: 02 6331 7211 (or other more appropriate number)  
 Mobile: (if applicable)

The above footer is filled out with data contained within the Council address book and staff are encouraged to ensure that their record within this address book is accurate and up-to-date.

Below this footer is the Council disclaimer, which is not visible when an email is created, but is attached to every outbound email via our filter.

The text of that disclaimer is as follows:

*"This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of Bathurst Regional Council, unless otherwise stated."*

*For the purposes of the Copyright Act, the permission of the holder of copyright in this communication may be taken to have been granted, unless stated otherwise, for the copying or forwarding of this message, as long as both the content of this communication and the purpose for which it is copied or forwarded are work related."*

## 6. Monitoring

Council reserves the right to monitor all internet access and email messages received by and contained within Council's computer system(s) and will do so to support system maintenance, system management, document management, investigate illegal use or wrongdoing, support Council's Policies, support legal requirements and for any business purpose. Monitoring shall be undertaken by the Information Services section, and occasionally monitored by Manager Information Services or any other authorised Officer.

## 7. Disciplinary Action

The Information Services section or other staff should report misuse to their Director or to the General Manager for appropriate action within Council's standard conditions of employment and HR guidelines.

Any disciplinary action taken will be in accordance with the guidelines set out in Council's Performance Management and Disciplinary policy.

## 8. Privacy/Confidentiality

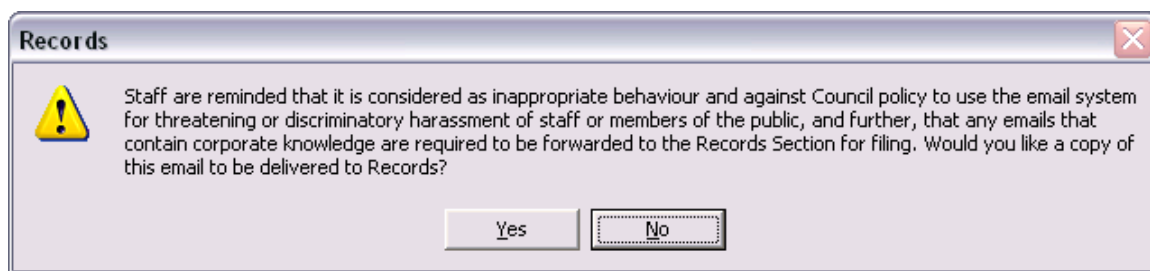
The internet and email Policy and associated Protocols for Use of Council Resources for internet and email abide by the Government Information (Public Access) Act and the Privacy and Personal Information Protection Act and Council will make every effort to ensure that these standards are followed.

## 9. Ethics/Personal Use

The internet and email system has been developed to support Council's business function and enhance communication. The Council will allow reasonable personal use and staff are encouraged to use good judgment and integrity when they do so.

## 10. Records/Document Management

All email messages are recognised as organisational records and shall be properly managed for record keeping purposes.



This can be managed by answering Yes to the above question and following the prompts for details

File Number: Council File i.e. Xx.xxxxx  
Your Reference: Other parties reference  
Full name: Other party  
Title: Position  
Organisation: Company name

Email messages must be registered in the Records Management system if they are of organisational significance and/or will need to be referred to again.

Messages indicated as being of a personal nature may be stored on the computer network, but not necessarily incorporated into the Document Management systems.

## **11. Staff Termination, Absenteeism And Leave**

Terminated staff shall have no right to access their former email mailbox.

Staff who are on leave must organise for their email to be redirected to another member of staff who is available during the period of leave. The redirection shall be authorised by the appropriate Manager or Director. Absent staff must recognise that their email messages will be redirected to other staff to ensure the work flow continues.



**POLICY: ENGINEERING SERVICES DEPARTMENT POLICIES**

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Policies pertaining to the Department of Engineering Services are contained within the Policy Manual Engineering Department.

Copies of these Policies are available from the Engineering Services Department.

The Policies included in the Manual are as follows:

As at July 2024.

<b>Policy</b>	<b>Date Adopted</b>
Bluestone Kerb	3 July 2024
Drought Management Plan	6 September 2006
Floodplain – Macquarie River Restoration	3 July 2024
Floodplain Management	5 December 2012
Jordan Creek - Easement	3 July 2024
Kerb & Guttering – Extensions to Driveways when reconstructing sections of roads	3 July 2024
Kerb and Guttering – Footpath Construction	3 July 2024
No Smoking Policy for Playgrounds and Sporting Fields	3 July 2024
Trade Waste Policy	20 April 2011
Roads – Access over Open Channels on Road Reserves	3 July 2024
<del>Roads – B-Double Trucks Access</del>	Rescinded 3 July 2024
Roads – Permission to Use	3 July 2024
Roads – Road Reconstruction – Parking Bays	3 July 2024
Roadside Tributes Policy	14 December 2011
Sporting Fields – Temporary Goal Posts on Council Playing Fields	15 July 2020
Vegetation & Signage for Roundabouts	15 April 2015
Walkways – Strategy for Walkway Requirements and Closures	18 October 2023

## POLICY ENVIRONMENTAL, PLANNING & BUILDING SERVICES DEPARTMENT POLICIES

Policies pertaining to the Department of Environmental, Planning & Building Services are contained within the Policy Manual EP&BS Department. Copies of these Policies are available from the Environmental, Planning & Building Services Department or on the Intranet.

The Policies included in the Manual are as follows: As at November 2021

<b>Policy</b>	<b>Date Adopted</b>
Asbestos	15 March 2017
Advertising Signs in Public Areas	16 August 2017
Approved Handling of Fill	23 June 2023
Burial on Private Property	16 February 2022
Commercial Infill	30 March 2005
Compliance & Enforcement – Food Safety	17 November 2010
Construction and Transfer of Crown Roads	22 September 2021
Contaminated Land Policy (effective 27/2/2017)	18 August 2021
Control of Open Burning	17 September 2014
Dangerous and Menacing Dogs	21 June 2017
Demolition of the Built Environment	30 March 2005
Development Application fees – CBD Advertising signage	18 May 2016
Enforcement Policy	2 October 2019
Footpath Restaurants	March 2020
Greywater Reuse (Residential Areas)	17 February 2010
Industries – Establishment of new industries in Bathurst	8 December 2004
Land – subdivisions (Developers)	8 December 2004
Land – variation Covenants	6 February 2013
Legionella Management Policy	Repealed 20/7/2016
Bathurst Region LEP 2014 (adopted 10 December 2014), Bathurst Region DCP 2014 (adopted 10 December 2014) & Local Approvals Policy 2013 (adopted 16 May 2018) OLG consent refer to Trim No 20.00130/030	various
Lighting – White Way Lighting Under Awnings in the CBD	6 February 2013
Mount Panorama – Noise Reference Line	18 August 2021
Operation of Tourist & Visitor Accommodation Establishments Policy	19 February 2014
Planning Instrument Amendments and Refund of Fees	21 June 2017
Protection of Vegetation & Habitat Policy	20 November 2013
Rainwater Tanks – Reticulated Water supply Areas	21 February 2007
Residential Infill	30 March 2005
Roadside Heritage Items	30 March 2005
Section 94	N/A
Sewerage Treatment Works	6 February 2013
Street Vending and sale of fruit and produce from orchards and market gardens	30 March 2005
Street Vending and Roadside Stalls Policy	1 April 2020
Sunny Corner Contaminated Land Policy	Repealed 14/12/2016
Swimming Pool Inspection Program Policy	15 April 2015
Telecommunications and Radiocommunications Policy	8 December 2010
Tree Preservation & Management Policy (effective 19/11/14)	16 December 2013



Use of Remotely Piloted Aircraft Systems/Drones	6 February 2019
Waiving of Development Application Fees Policy	16 June 2023

### 3.6. F

<b>POLICY:</b>	FAMILY DAY CARE SERVICE – EDUCATOR ADVANCES
<b>DATE ADOPTED:</b>	Director Cultural & Community Service’s Report 8.5.2 Council 16 September 2020 Minute Resolution Number: ORD2020-251  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	09.00008
<b>OBJECTIVE:</b>	To facilitate the attraction of Educators to the Family Day Care Service Council provides Educator Advances to assist in meeting set-up costs, ongoing renewal of resources and environmental upgrades to ensure the provision of high quality child care.

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Council will provide Educator Advances to assist Family Day Care Educators on the following basis:

- a. Maximum advance of \$1,000;
- b. Educators substantiating actual expenditure;
- c. A formal agreement being entered into;
- d. Repayment to be over a maximum of 40 weeks;
- e. Full repayment of the Advance to occur if the Educator should leave the service;
- f. Acquittal form to be completed with a 2-month period of receiving the Advance;
- g. Can be used for items that are reflective of the National Quality Standards
- h. Available to prospective and existing Educators; and
- i. Any Advance is at Council’s sole prerogative.

<b>POLICY:</b>	FINANCE – BORROWING
<b>DATE ADOPTED:</b>	Director Corporate Services Report #1 Policy 4 July 2018 Council 18 July 2018 Minute Book No. 12793
<b>ORIGINAL ADOPTION:</b>	
<b>FILE REFERENCE:</b>	16.00001
<b>OBJECTIVE:</b>	To provide guidelines about the use and management of Bathurst Regional Council borrowings (including overdraft facilities).

### Introduction

The aim of this policy is to provide guidelines regarding the appropriate procedures used for Council when borrowing funds.

### Purpose

To ensure that Council exercises care, diligence and skill that a prudent person would exercise in borrowing funds on behalf of Council.

### Definitions

1. Variable Rate Loan is a loan that attracts an interest rate linked to a variable benchmark. In Australia variable rate loans are normally priced at a fixed margin over the Ausbond Bank Bill Rate which is the market benchmark three month interbank rate
2. Fixed Rate Loan is a loan that attracts a fixed pre-determined interest rate throughout the term of the loan.
3. Amortising/Credit Foncier Loan is a loan that is repaid over the term of the loan, normally by equal instalments due quarterly or semi-annually. Interest payments and capital repayments are normally combined and paid on the instalment date.
4. Interest Only Loan is a loan repaid in full on the final maturity date. The loan can be either a variable rate loan or a fixed rate loan with interest payments normally payable quarterly for a variable rate loan and semi-annually for a fixed rate loan.

### Policy Objective

The objective of this policy is to ensure that the use and management of Bathurst Regional Council borrowings (including overdraft facilities):

- a) complies with the Ministerial Revised Borrowing Order dated 13 May 2009;
- b) is undertaken with due regard for Council's role as a custodian of public funds;
- c) is undertaken with the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons; and
- d) complies with Council's overall risk management philosophy.

The Council's power to borrow funds arises from Section 621 of the Local Government Act 1993. As a custodian of public funds, Council must exercise the reasonable care and diligence that a prudent person would exercise when borrowing funds.

This policy provides a framework for Council to borrow funds while ensuring the ongoing viability of the Council by not permitting overall borrowings to extend Council beyond its ability to meet future repayments and budgetary obligations.

Section 377(1) (f) of the Local Government Act 1993 stipulates that Council cannot delegate the borrowing of money. It is expected that Councillors will have a full understanding of the terms and conditions of borrowing arrangements before entering into any contract.

## Policy Framework

### 1. LEGISLATIVE REQUIREMENTS

All borrowings must comply with the following:

- Local Government Act 1993;
- Local Government (General) Regulation 2005;
- Ministerial Revised Borrowing Order;
- Local Government Code of Accounting Practice and Financial Reporting;
- Australian Accounting Standards;
- Office of Local Government Circulars; and
- Council Resolutions

### 2. DELEGATION OF AUTHORITY

Authority for the implementation of this policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993. The General Manager may, in turn, delegate the day-to-day management of Council's borrowings to the Responsible Officer or other appropriately qualified senior staff (subject to regular reviews).

A record of the delegated authority is to be maintained and delegates are required to acknowledge that they have received a copy of this policy and understand the obligations of their delegated role.

It is the responsibility of the General Manager to ensure that delegates have the necessary expertise and skill to carry out their delegated roles.

### 3. GUIDING PRINCIPLES

- Borrowings may only be used to fund capital expenditure and not operating expenditure (which should be funded from revenue).
- Minimum working capital requirements are to be identified and maintained in a readily available form such that there is no need to call on borrowings to fund any shortfall in reasonably anticipated operating requirements.
- It is appropriate to fund significant capital works via borrowings such that the full cost of infrastructure is not only borne by present day ratepayers, but also by future ratepayers who will benefit from use of the funded infrastructure.
- It may be appropriate to fund certain capital projects with user charges, in which case user charges should reflect the project's costs, including loan payments.

- The impact on Council's budget of any movement in interest rates must be actively managed.

#### 4. STRUCTURE OF BORROWINGS

##### Overdraft

The Council maintains a modest overdraft facility for unexpected changes to operating cash flow requirements. As there are costs involved in accessing the facility, it is not to be used for expected operating cash flow and it is not to be used for long-term financing.

##### Long-Term Borrowings

###### *Considerations*

To assist with making the decision on whether to undertake long-term borrowings, Council should consider:

- the financial impact of the proposed borrowing on Council's Long Term Financial Plan, Delivery Program and Operational Plan including:
  - scenario analysis in the case of changes to market interest rates; and
  - any positive impact of the capital works funded by the proposed borrowing;
- the Debt Service Ratio, which is an indicator of Council's ability to service its borrowings (should be shown to remain below 10%);
- the cost-benefit analysis of the capital works to be funded and the works alignment with Council's strategic planning and capital program; and
- the proposed structure of the borrowings and the proposed way in which the Council will procure the borrowings to achieve competitive and favourable terms.

#### 5. REQUIREMENTS

All borrowings must be approved by Council resolution. The intention to borrow funds must be included in Council's annual draft Operational Plan.

Council should advise the Office of Local Government (OLG), completing a loan borrowing forecast return. If Council subsequently changes the purpose of the loan or increases the amount, a Council resolution must be passed prior to drawing any funds. In the event of an increase, Council must also re-submit their loan borrowing return to OLG (this information is normally collected by NSW Treasury Corporation on behalf of OLG).

#### 6. PROCESS

To minimise the cost of borrowing, the policy will require Council to seek competitive borrowing terms by way of obtaining a minimum of 3 quotes, including a quote from NSW Treasury Corporation.

The borrowing maturity profile should reflect the Council's forecast repayment profile. Consideration should also be given to incorporating flexibility in borrowing covenants in case of early repayment or a need to extend the term of the loan.

During the life of long-term borrowings, Council must regularly update its financials to ensure no breach of covenants or to take advantage of flexibility in the repayment profile should Council's financial situation change over time.

#### 7. RESTRICTIONS

Council is restricted, by the Ministerial Revised Borrowing Order dated 13 May 2009, to source the borrowings from Australia and in Australian currency.

## 8. BORROWING PARAMETERS

The Council's borrowing program must remain within the following parameters:

- Maximum term of borrowings is the shorter of 20 years or the expected economic life of the capital works funded.
- The maximum total amount of outstanding borrowings is \$40 million.

### **Monitoring and Reporting**

Any breach of this policy is to be reported to the General Manager and Responsible Accounting Officer immediately upon becoming aware of such breach. A written statement of the facts relating to the breach is to be prepared within two business days, including the remedial action taken or proposed to be taken. The breach should be reported to Council at the next meeting.

### **Policy Review**

This policy will be reviewed at least once every four years and, in addition, as and when required in the event of legislative or other regulatory changes. Any amendment to this policy must be authorised by Council resolution.

<b>POLICY:</b>	FINANCE - INVESTMENT OF SURPLUS FUNDS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #1 Policy 4 July 2018 Council 18 July 2018 Minute Book No. 12793  Director Corporate Services & Finance Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance Report #2 Policy 2 March 2011 Council 16 March 2011 Minute Book No. 11079
<b>FILE REFERENCE:</b>	16.00001
<b>OBJECTIVE:</b>	To provide guidelines about Council's on going Investment strategies.

## Introduction

The aim of this policy is to provide guidelines regarding the appropriate procedures used for Council to invest surplus funds.

## Purpose

To ensure that Council exercise care, diligence and skill that a prudent person would exercise in investing Council funds.

## Definitions:

1. Bloomberg Ausbond Bank Bill Index (the) is an index comprised of 13 synthetic instruments defined by rates interpolated from the RBA 24-hour cash rate and the one and three month Bank Bill Swap Rates.
2. Authorised Deposit-taking Institutions (ADIs) are corporations authorised under the Bank Act 1959 (Cwth) to take deposits from customers. ADI's include banks, building societies and credit unions all of which are regulated by the Australian Prudential Regulation Authority.
3. Bank Bill Swap Rate is the compilation and average rate of market rates supplied by domestic banks relating to multiple maturities of bank bills.
4. Bill of Exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer.



5. Debenture is a debt security usually secured by a fixed or floating charge over an underlying asset or pool of assets. Debentures are normally issued by companies in return for medium and long term investment funds.
6. Floating Rate Notes are securities that (in Australia) pay a coupon normally priced at a fixed margin above the Bank Bill Swap Rate
7. TCorp means NSW Treasury Corporation
8. Term Deposits (or Deposits) are non-tradeable investments offered by ADIs with varying maturity dates (normally from one month to 60 months) and a rate set at the outset. Interest is normally payable upon maturity or if the term is longer than 12 months, annually from the investment date. Penalties apply if the funds are withdrawn before maturity and a notice period of 31 days is usually required.

### **Policy Objective**

While exercising the power to invest, consideration needs to be given to preservation of capital, liquidity and the return on investment.

- (a) Preservation of capital is the principal objective of the investment portfolio. Investments are to be performed in a manner that seeks to ensure security and safeguarding the investment portfolio. Authorised officers are to manage the investment portfolio and to safeguard the portfolio in accordance with the spirit of this Investment Policy and the Ministerial Investment Order, and not for speculative purposes.
- (b) The investment portfolio will ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment.
- (c) The investment is expected to achieve an acceptable rate of return having reference to the Council's risk tolerance. Any additional return target set by the Council will also consider the risk limitation and prudent investment principles.

### **Policy Guidelines**

#### 1. Legislative Requirements

All investments are to comply with the following:

- Local Government Act 1993 – Section 412 & 625;
- Local Government Act 1993 – Order (of the Minister) Circular No: 11-01 gazetted on 11 February 2011.
- The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2).
- Local Government (General) Regulation 2005 - Clause 212.
- Recommendations from the Review of NSW Local Government Investments – Final Report – Michael Cole, April 2008.
- The Local Government Code of Accounting Practice and Financial Reporting.
- Office of Local Government Circulars.

- Council Resolutions.

## 2. Authorised Investments

All of the Council's investments must be denominated in Australian Dollars. The Council may only invest money in the forms of investments, as taken directly from the Local Government Act 1993 – Order (of the Minister) Circular No: 11-01 gazetted on 17 February 2011.

- any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory
- any debentures or securities issued by a Council (within the meaning of the Local Government Act 1993 (NSW))
- interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations
- any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an Authorised Deposit-taking Institution by the Australian Prudential Regulation Authority
- a deposit with the NSW Treasury Corporation (Tcorp) or investments in a Tcorp Investment Management (TcorpIM) Investment Fund.

All investment instruments (excluding short term discount instruments) referred to above include principal and investment income (interest).

## TRANSITIONAL ARRANGEMENTS

- Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with previous Ministerial Order dated 12 January 2011, and such investments are taken to be in compliance with this Order.
- Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

## 3. Delegation of Authority

The ultimate decision to make investments on Council's behalf is by delegation to the General Manager.

<b>Authorised Officer</b>	<b>Roles &amp; Responsibilities</b>
General Manager	Authority to invest surplus funds and may delegate this function, subject to various dollar limits and restrictions as stated in this Investment Policy

Director of Corporate Services and Finance	Per Delegation
Manager Financial Services	Per Delegation
Expenditure Accountant	Per Delegation

#### 4. Amendments

The General Manager is hereby authorised to approve a variation to this policy if the General Manager in his/her opinion the variation is to the advantage of Council and in the spirit of this policy and/or due to changes in legislation. Any such variations to this policy are to be reported to Council within 30 days.

#### 5. Prohibited Investments

This Investment Policy prohibits any investment carried out for speculative purposes including:

- Derivative based instruments;
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Standalone securities issued that have underlying futures, options, forward contracts and swaps of any kind; and
- The use of leveraging (borrowing to invest) of any investment.

#### 6. Credit and Maturity Guidelines

Investments are to comply with three key criteria relating to:

- Overall Portfolio Credit Framework: limit overall credit exposure of the portfolio;
- Institutional Credit Framework: limit exposure to individual institutions based on their credit ratings, and;
- Term to Maturity Framework: limits based upon maturity of securities.

##### a) Overall Portfolio Credit Framework:

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category.

##### b) Institutional Credit Framework

Exposure to an individual institution will be restricted by their credit rating so that single entity exposure is limited, as detailed in the following table.

If any of the Council's investments are downgraded such that they no longer fall within the investment policy, they will be divested as soon as practicable.

The long-term credit rating limit will apply in the case of discrepancies between short and long-term ratings.

Standard & Poor's	Standard & Poor's	Maximum	By
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Long Term Rating	Short Term Rating	Portfolio %	Counterparty
AAA	A-1+	100%	100%
Major Australian Banks (CBA, WBC, NAB, ANZ) AA-	A-1+	100%	40%
Other AA+ to A banks	A-1+ to A-1	100%	30%
A-	A-2	40%	20% (max \$10m)
BBB+ to BBB	A-2	20%	5% (max \$5m)
BBB- and unrated	A-3 or unrated	Note*	Kept to a minimum. Allows for local institutions such as Reliance Credit Union

\*Note: For reasons of practicality the number of these investments should be kept to a minimum.

#### c) Term to Maturity Framework

The investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Return to Maturity		
Portfolio % < 1 year	Min 40%	Max 100%
Portfolio % > 1 year < 3 years	Min 0%	Max 60%
Portfolio % > 3 year < 5 years	Min 0%	Max 30%
Portfolio % > 5 year	Min 0%	Max 15%

## 7. Performance Benchmarks

The performance of the investment portfolio shall be measured against the industry standard UBS 90 day Bank Bill Index and/or the Official RBA 11am Cash Rate. For investments with a lifetime of more than 24 months Council will use the Ausbond Composite 2-5 year Index (<https://www.bloomberg.com/quote/BACM25:IND>).

### Investment Strategy

An Investment Strategy will run in conjunction with the Investment Policy. The Strategy will take into consideration:

- Council's cash flow expectations.
- Ensure access is available within seven (7) days to at least \$1million or 1% of the value of its total investments, whichever is the greatest amount.
- Optimal target allocation of investment types, credit rating exposure, and term to maturity exposure.

- Appropriateness of overall investment types for Council's portfolio.
- Determine the investment portfolio level for the forthcoming year.

### Reporting

- A monthly report shall be provided to Council, detailing the investment portfolio in terms of performance and amounts with each investment.
- For audit purposes, certificates must be obtained from Austraclear (if utilised) and each financial institution confirming the amounts of investment held on the Council's behalf at 30<sup>th</sup> June each year.

### Safe Custody Arrangements

Where necessary, investments may be held in safe custody on the Council's behalf, as long as the following criteria are met:

- Adequate documentation is provided, verifying the existence of the investments.
- The custodian conducts regular reconciliation of records with relevant registries and/or clearing systems.
- The Institution or Custodian recording and holding the assets will be:
  - Austraclear or;
  - An institution with a credit rating of 'A' or better from Standards and Poor's or equivalent;
  - An institution with adequate insurance, including professional indemnity insurance and other insurances considered prudent and appropriate to cover its liabilities under any agreements.

### Ethical Investments

Within the limits of this Investment Policy and legislation, Council's investments will be made in consideration of the principals of ethical investment management. Preference will be given to institutions rated highly by recognised ethically responsible investment screening processes, provided the financial return and risk rating of investment products being considered at the time are otherwise equivalent.

Council will preference investment securities and financial institutions that meet socially responsible investments (SRI) criteria. SRI status may be in respect of the individual investment, the issuer of the investment, or both and should be endorsed by an accredited environmentally and socially responsible industry body or institution.

Environmentally and Socially Responsible Investments will be assessed on the same basis as other investment opportunities and Council will select the investment that best meets its overall investment selection criteria.

Council's criteria relating to an SRI are those which:

- direct investment towards the socially and environmentally productive activities listed below; and
- avoid investment in the socially and environmentally harmful activities listed below.

The criteria for SRI are all preferred and not mandatory requirements.

Environmentally productive activities are considered to be:

- resource efficiency-especially water and energy
- renewable energy
- production of environmentally friendly products
- recycling, and waste and emissions reduction

Socially productive activities are considered to be:

- fair trade and provision of a living wage
- human health and aged care
- equal opportunity employers, and those that support the values of communities, indigenous peoples and minorities
- provision of housing, especially affordable housing

Environmentally harmful activities are considered to be:

- production of pollutants, toxins and greenhouse gases (coal, oil and gas)
- habitat destruction, especially destruction of forests and marine eco-systems.
- nuclear power
- uranium mining

Socially harmful activities are considered to be:

- abuse of Human Rights and Labour Rights
- involvement in bribery/corruption
- production or supply of armaments
- manufacture of alcohol, tobacco or gambling products

### **Investment Advisor**

Any independent investment adviser engaged by Council, with the exception of TCorp, must hold an Australian Financial Services licence from the Australian Securities and Investments Commission.

Council must obtain written confirmation from the investment adviser that they do not have any actual or potential conflicts of interest in relation to the investments they are recommending or reviewing, and that they are not receiving any commissions or other benefits in relation to the investments they are recommending or reviewing.

### **Policy Review**

In accordance with the OLG Guidelines this Investment policy will be reviewed at least on an annual basis and any amendments should be approved by a resolution of Council.

<b>POLICY:</b>	FINANCE - SIGNIFICANT ACCOUNTING POLICIES – CONSOLIDATED FINANCIAL STATEMENTS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #5 Council 19 September 2018 Minute Book No. 12825  Director Corporate Services & Finance’s Report #9 Council 16 September 2015 Minute Book No. 12094
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book 9416
<b>FILE REFERENCE:</b>	16.00055
<b>OBJECTIVE</b>	To provide parameters of Council’s significant accounting policies with respect to completion of Council’s Statement of Accounts.

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The principal accounting policies adopted in the preparation of Council’s consolidated financial statements are set out below.

Basis of preparation

The general purpose financial statements are prepared in accordance with Australian Accounting Standards and Australian Accounting Interpretations, the Local Government Act 1993 (NSW) and Regulations, and the Local Government Code of Accounting Practice and Financial Reporting. Council is a not for-profit entity for the purpose of preparing its financial statements.

The financial statements are presented in Australian dollars and are rounded to the nearest thousand dollars.

Full dollars have been used in Note 21 Related party disclosures in relation to the disclosure of specific related party transactions.

Unless otherwise indicated, all amounts disclosed in the financial statements are actual amounts.

Specific budgetary amounts have been included for comparative analysis (to actuals) in the following reports and notes:

- Income statement
- Statement of cash flows
- Note 19 – Material budget variations,

and are clearly marked .

### Historical cost convention

The financial statements are prepared under the historical cost convention, as modified by the revaluation of certain financial assets and liabilities and certain classes of infrastructure, property, plant and equipment and investment property.

### Significant accounting estimates and judgements

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Council's accounting policies.

Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that may have a financial impact on the Council and that are believed to be reasonable under the circumstances.

### Critical accounting estimates and assumptions

Council makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year include:

- (i) estimated fair values of investment properties –refer Note 10,
- (ii) estimated fair values of infrastructure, property, plant and equipment – refer Note 9,
- (iii) estimated tip remediation provisions – refer Note 12,
- (iv) employee benefit provisions – refer Note 12.

### *Significant judgements in applying the Council's accounting policies*

- (v) Impairment of receivables

Council has made a significant judgement about the impairment of a number of its receivables in Note 7.

### *Monies and other assets received by Council*

- (a) The Consolidated Fund

In accordance with the provisions of Section 409(1) of the Local Government Act 1993 (NSW), all money and other assets received by Council is held in the Council's Consolidated Fund unless it is required to be held in the Council's Trust Fund. Cash and other assets of the following entities have been included as part of the Consolidated Fund

- General purpose operations
- Water service



- Sewerage service

(b) The Trust Fund

In accordance with the provisions of Section 411 of the Local Government Act 1993 (NSW) (as amended), a separate and distinct Trust Fund is maintained to account for all money and other assets received by the Council in trust which must be applied only for the purposes of, or in accordance with the trusts relating to those monies. Trust monies and other assets subject to Council's control have been included in these reports.

A separate statement of monies held in the Trust Fund is available for inspection at the Council office by any person free of charge.

***Goods and Services Tax (GST)***

Revenues, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the taxation authority. In this case it is recognised as part of the cost of acquisition of the asset or as part of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to the taxation authority is included with other receivables or payables in the Statement of Financial Position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which that are recoverable from, or payable to the taxation authority are presented as operating cash flows.

Accounting policy for rates and annual charges

Rates, annual charges, grants and contributions (including developer contributions) are recognised as revenue when the Council obtains control over the assets comprising these receipts. Developer contributions may only be expended for the purposes for which the contributions were required, but the Council may apply contributions according to the priorities established in work schedules.

Accounting policy for user charges and fees

User charges and fees are recognised as revenue when the service has been provided.

Accounting policy for interest and investment revenue

Interest income is recognised using the effective interest rate at the date that interest is earned.

Accounting policy for other revenue

Council recognises revenue when the amount of revenue can be reliably measured, it is probable that future economic benefits will flow to the Council and specific criteria have been met for each of the Council's activities as described below. Council bases its estimates on historical results, taking into consideration the type of customer, the type of transaction and the specifics of each arrangement.

Parking fees and fines are recognised as revenue when the service has been provided, or when the penalty has been applied, whichever occurs first.

Rental income is accounted for on a straight-line basis over the lease term.

Miscellaneous sales are recognised when physical possession has transferred to the customer which is deemed to be the point of transfer of risks and rewards.

Other income is recorded when the payment is due, the value of the payment is notified, or the payment is received, whichever occurs first.

#### Accounting policy for contributions

Control over grants and contributions is normally obtained upon their receipt (or acquittal) and is valued at the fair value of the granted or contributed asset at the date of transfer.

Where grants or contributions recognised as revenues during the financial year were obtained on condition that they be expended in a particular manner or used over a particular period and those conditions were un-discharged at reporting date, the unused grant or contribution is disclosed above.

A liability is recognised in respect of revenue that is reciprocal in nature to the extent that the requisite service has not been provided at reporting date.

#### Accounting policy for employee benefits and on-costs

Employee benefit expenses are recorded when the service has been provided by the employee.

#### ***Retirement benefit obligations***

All employees of the Council are entitled to benefits on retirement, disability or death. Council contributes to various defined benefit plans and defined contribution plans on behalf of its employees.

#### ***Superannuation plans***

Contributions to defined contribution plans are recognised as an expense as they become payable. Prepaid contributions are recognised as an asset to the extent that a cash refund or a reduction in the future payments is available.

Council participates in a Defined Benefit Plan under the Local Government Superannuation Scheme, however, when sufficient information to account for the plan as a defined benefit is not available and therefore Council accounts for its obligations to defined benefit plans on the same basis as its obligations to defined contribution plans, i.e. as an expense when it becomes payable.

#### Accounting policy for borrowing costs

Borrowing costs incurred for the construction of any qualifying asset are capitalised during the period of time that is required to complete and prepare the asset for its intended use or sale. Other borrowing costs are expensed.

#### Accounting policy for depreciation, amortisation and impairment expenses

***Depreciation and amortisation***

Depreciation and amortisation are calculated using the straight line method to allocate their cost, net of their residual values, over their estimated useful lives. Useful lives are included in Note 9 for IPPE assets.

***Impairment of non-financial assets***

Other assets are tested for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash inflows that are largely independent of the cash inflows from other assets or groups of assets (cash-generating units). Non-financial assets that suffered an impairment are reviewed for possible reversal of the impairment at each reporting date.

Impairment losses for revalued assets are firstly offset against the amount in the revaluation surplus for the class of asset, with only the excess to be recognised in the Income Statement.

**Accounting policy for other expenses**

Other expenses are recorded on an accruals basis as the Council receives the goods or services.

**Accounting policy for disposal of assets**

The gain or loss on sale of an asset is determined when control of the asset has irrevocably passed to the buyer and the asset is derecognised.

**Accounting policy for cash and cash equivalents**

For Statement of Cash Flow presentation purposes, cash and cash equivalents includes cash on hand; deposits held at call with financial institutions; other short-term, highly liquid investments with original maturities of three months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value; and bank overdrafts. Bank overdrafts are shown within borrowings in current liabilities on the Statement of Financial Position.

**Accounting policy for investments*****Classification***

Council classifies its financial assets in the following categories: financial assets at fair value through profit or loss; loans and receivables; held-to-maturity investments; and available-for-sale financial assets. The classification depends on the purpose for which the investments were acquired. Management determines the classification of its investments at initial recognition and, in the case of assets classified as held-to-maturity, re-evaluates this designation at each reporting date.

***Held to maturity investments***

Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that Council's management has the positive intention and ability to hold to maturity. Assets in this category are measured at amortised cost.

### ***Recognition and de-recognition***

Regular purchases and sales of financial assets are recognised on trade-date: the date on which Council commits to purchase or sell the asset. Investments are initially recognised at fair value plus transaction costs for all financial assets not carried at fair value through profit or loss. Financial assets carried at fair value through profit or loss are initially recognised at fair value and transaction costs are expensed in the income statement.

Investments are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and Council has transferred substantially all the risks and rewards of ownership.

### **Accounting policy for receivables**

#### ***Recognition and measurement***

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They are included in current assets, except for those with maturities greater than 12 months after the reporting date which are classified as non-current assets. Loans and receivables are included in other receivables and receivables in the Statement of Financial Position.

Receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. Receivables are generally due for settlement within 30 days.

Cash flows relating to short-term receivables are not discounted if the effect of discounting is immaterial.

#### ***Impairment***

For loans and receivables the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the financial asset's original effective interest rate. The carrying amount of the asset is reduced and the amount of the loss is recognised in profit or loss.

Collectability of receivables is reviewed on an on-going basis. Debts that are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of receivables) is used when there is objective evidence that Council will not be able to collect all amounts due according to the original terms of the receivables.

Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments (more than 30 days overdue) are considered indicators that the receivable is impaired. When a receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period it is written off against the allowance account.

Subsequent recoveries of amounts previously written off are credited against other expenses in the Income statement.

#### Accounting policy for Inventories and Other Assets

##### ***Raw materials and stores, work in progress and finished goods***

Raw materials and stores are stated at the lower of cost and net realisable value. Costs are assigned to individual items of inventory on basis of weighted average costs. Costs of purchased inventory are determined after deducting rebates and discounts. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

##### ***Inventory held for distribution***

Inventory held for distribution is held at cost, adjusted where applicable for any loss of service potential.

##### ***Land held for resale/capitalisation of borrowing costs***

Land held for resale is stated at the lower of cost and net realisable value. Cost is assigned by specific identification and includes the cost of acquisition, and development and borrowing costs during development.

When development is completed borrowing costs and other holding charges are expensed as incurred.

Borrowing costs included in the cost of land held for resale are those costs that would have been avoided if the expenditure on the acquisition and development of the land had not been made. Borrowing costs incurred while active development is interrupted for extended periods are recognised as expenses.

#### Accounting policy for infrastructure, property, plant and equipment

Infrastructure, property, plant and equipment are held at fair value. Independent valuations are performed at least every five years, however the carrying amount of assets is assessed at each reporting date to confirm that it is not materially different from current fair value.

Water and sewerage network assets are indexed at each reporting period in accordance with the Rates Reference Manual issued by Crown Lands and Water (CLAW).

Increases in the carrying amounts arising on revaluation are credited to the asset revaluation reserve. To the extent that the increase reverses a decrease previously recognising profit or loss relating to that asset class, the increase is first recognised as profit or loss. Decreases that reverse previous increases of assets in the same class are first charged against revaluation reserves directly in equity to the extent of the remaining reserve attributable to the class; all other decreases are charged to the Income Statement.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to Council and the cost of the item can be measured

reliably. All other repairs and maintenance are charged to the income statement during the financial period in which they are incurred.

Land is not depreciated. Depreciation on other assets is calculated using the straight line method to allocate their cost, net of their residual values, over their estimated useful lives as follows:

<b>Plant and equipment</b>	<b>Years</b>	<b>Other equipment</b>	<b>Years</b>
Office equipment	5 to 10	Playground equipment	5 to 15
Office furniture	10 to 20	Benches, seats etc.	10 to 20
Computer equipment	4		
Vehicles	5 to 8	<b>Buildings</b>	
Heavy plant/road making equipment	5 to 8	Buildings: masonry	50 to 100
Other plant and equipment	5 to 15	Buildings: other	20 to 40

<b>Water and sewer assets</b>		<b>Stormwater assets</b>	
Dams and reservoirs	80 to 100	Drains	80 to 100
Bores	20 to 40	Culverts	50 to 80
Reticulation pipes: PVC	70 to 80	Flood control structures	80 to 100
Reticulation pipes: other	25 to 75		
Pumps and telemetry	15 to 20		

<b>Transportation assets</b>		<b>Other infrastructure assets</b>	
Sealed roads: surface	20	Bulk earthworks	20
Sealed roads: structure	50	Swimming pools	50
Unsealed roads	20	Unsealed roads	20
Bridge: concrete	100	Other open space/recreational assets	20
Bridge: other	50	Other infrastructure	20
Road pavements	60		
Kerb, gutter and footpaths	40		

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at each reporting date.

Gains and losses on disposals are determined by comparing proceeds with carrying amount. These are included in the Income statement.

### ***Land under roads***

Land under roads is land under roadways and road reserves including land under footpaths, nature strips and median strips.

Council has elected not to recognise land under roads acquired before 1 July 2008 in accordance with AASB 1051 Land Under Roads.

Land under roads acquired after 1 July 2008 is recognised in accordance with AASB 116 Property, Plant and Equipment.

### **Crown reserves**

Crown Reserves under Council's care and control are recognised as assets of the Council. While ownership of the reserves remains with the Crown, Council retains operational control of the reserves and is responsible for their maintenance and use in accordance with the specific purposes to which the reserves are dedicated.

Improvements on Crown Reserves are also recorded as assets, while maintenance costs incurred by Council and revenues relating to the reserves are recognised within Council's Income Statement.

### **Rural Fire Service assets**

Under section 119 of the Rural Fire Services Act 1997 (NSW), "all fire fighting equipment purchased or constructed wholly or from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the fire fighting equipment has been purchased or constructed".

Until such time as discussions on this matter have concluded and the legislation changed, Council will recognise rural fire service assets including land, buildings, plant and vehicles.

### Accounting policy for investment property

Investment property, principally comprising freehold office buildings, is held for long-term rental yields and is not occupied by the Council. Changes in fair values are recorded in the income statement as part of other income.

Properties that are under construction for future use as investment property are regarded as investment property. These are also carried at fair value unless the fair value cannot yet be reliably determined. Where that is the case, the property will be accounted for at cost until either the fair value becomes reliably determinable or construction is complete.

### Accounting policy for payables and borrowings

#### **Payables**

These amounts represent liabilities for goods and services provided to the Council prior to the end of financial year that are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### **Borrowings**

Borrowings are initially recognised at fair value, net of transaction costs incurred. Borrowings are subsequently measured at amortised cost. Any difference between the proceeds (net of transaction costs) and the redemption amount is recognised in the income statement over the period of the borrowings using the effective interest method. Fees paid on the establishment of loan facilities are recognised as transaction costs of the loan to the extent that it is probable that some or all of the facility will be drawn down. In this case, the fee is deferred until the draw down occurs. To the extent there is no evidence that it is probable that some or all of the facility will be drawn down, the fee is capitalised as a prepayment for liquidity services and amortised over the period of the facility to which it relates.

Borrowings are removed from the Statement of Financial Position when the obligation specified in the contract is discharged, cancelled or expired. The difference between the carrying amount of a financial liability that has been extinguished or transferred to another party and the consideration paid, including any non-cash assets transferred or liabilities assumed, is recognised in other income or finance cost.

Borrowings are classified as current liabilities unless Council has an unconditional right to defer settlement of the liability for at least 12 months after the reporting date.

#### Accounting policy for provisions

Provisions are recognised when Council has a present legal or constructive obligation as a result of past events, it is probable that an outflow of resources will be required to settle the obligation, and the amount has been reliably estimated.

Where there are a number of similar obligations, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one item included in the same class of obligations may be small.

Provisions are measured at the present value of management's best estimate of the expenditure required to settle the present obligation at the reporting date. The discount rate used to determine the present value reflects current market assessments of the time value of money and the risks specific to the liability. The increase in the provision due to the passage of time is recognised as interest expense.

### **Employee benefits**

#### ***Short-term obligations***

Liabilities for wages and salaries, including non-monetary benefits, annual leave and accumulating sick leave expected to be wholly settled within 12 months after the end of the period in which the employees render the related service are recognised in respect of employees' services up to the end of the reporting period and are measured at the amounts expected to be paid when the liabilities are settled. The liability for annual leave and accumulating sick leave is recognised in the provision for employee benefits. All other short-term employee benefit obligations are presented as payables.

#### ***Other long-term employee benefit obligations***

The liability for long service leave and annual leave that is not expected to be wholly settled within 12 months after the end of the period in which the employees render the related service is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the end of the reporting period using the projected unit credit method.

Consideration is given to expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using market yields at the end of the reporting period on national government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash outflows.



The obligations are presented as current liabilities in the Statement of Financial Position if the Council does not have an unconditional right to defer settlement for at least 12 months after the reporting date, regardless of when the actual settlement is expected to occur.

*Provisions for close-down and restoration, and environmental clean-up costs – tips and quarries*

### **Restoration**

Close down and restoration costs include the dismantling and demolition of infrastructure and the removal of residual materials and remediation of disturbed areas. Estimated close down and restoration costs are provided for in the accounting period when the obligation arising from the related disturbance occurs, whether this occurs during the development or during the operation phase, based on the net present value of estimated future costs.

Provisions for close down and restoration costs do not include any additional obligations which are expected to arise from future disturbance. The costs are estimated on the basis of a closure plan. The cost estimates are calculated annually during the life of the operation to reflect known developments, eg updated cost estimates and revisions to the estimated lives of operations, and are subject to formal review at regular intervals.

### **Rehabilitation**

Where rehabilitation is conducted systematically over the life of the operation, rather than at the time of closure, provision is made for the estimated outstanding continuous rehabilitation work at each reporting date and the cost is charged to the Income Statement.

Provision is made for the estimated present value of the costs of environmental clean-up obligations outstanding at the reporting date. These costs are charged to the Income Statement. Movements in the environmental clean-up provisions are presented as an operating cost, except for the unwinding of the discount which is shown as a borrowing cost.

Remediation procedures generally commence soon after the time the damage, remediation process and estimated remediation costs become known, but may continue for many years depending on the nature of the disturbance and the remediation techniques.

As noted above, the ultimate cost of environmental remediation is uncertain and cost estimates can vary in response to many factors including changes to the relevant legal requirements, the emergence of new restoration techniques or experience at other locations. The expected timing of expenditure can also change, for example in response to changes in quarry reserves or production rates. As a result there could be significant adjustments to the provision for close down and restoration and environmental clean-up, which would affect future financial results.

Other movements in the provisions for close down and restoration costs, including those resulting from new disturbance, updated cost estimates, changes to the estimated lives of operations and revisions to discount rates are capitalised within property, plant and equipment. These costs are then depreciated over the lives of the assets to which they relate.

Close down and restoration costs are a normal consequence of tip and quarry operations, and the majority of close down and restoration expenditure is incurred at the end of the life of the operations. Although the ultimate cost to be incurred is uncertain, Council estimates the respective costs based on feasibility and engineering studies using current restoration standards and techniques.

#### Accounting policy for subsidiaries

Subsidiaries are all entities (including structured entities) over which the Council has control. Control is established when the Council is exposed to, or has rights to variable returns from its involvement with the entity and has the ability to affect those returns through its power to direct the relevant activities of the entity.

These consolidated financial statements include the financial position and performance of controlled entities from the date on which control is obtained until the date that control is lost. Intragroup assets, liabilities, equity, income, expenses and cash flows relating to transactions between entities in the consolidated entity have been eliminated in full for the purpose of these financial statements. Appropriate adjustments have been made to a controlled entity's financial position, performance and cash flows where the accounting policies used by that entity were different from those adopted by the consolidated entity. All controlled entities have a June financial year end.

<b>POLICY:</b>	FINANCIAL STATEMENTS – RELATED PARTY DISCLOSURES
<b>DATE ADOPTED:</b>	
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 April 2017 Director Corporate Services & Finance’s Report #1 Policy 7 June 2017 Council 21 June 2017 Minute Book No. 12531
<b>FILE REFERENCE:</b>	16.00055
<b>OBJECTIVE</b>	To report appropriate disclosures in Council’s Financial Statements as required by the Accounting Standard.

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### Objective

The objective of the Policy is to ensure that the existence of certain related party relationships, related party transactions and information about the transactions, necessary for users to understand the potential effects on the Financial Statements are properly identified, recorded in Council’s systems, and disclosed in Council's General Purpose Financial Statements to achieve legislative compliance.

### Legislative and Regulatory Requirements

- Local Government Act 1993 and Local Government (General) Regulation 2005
- Accounting Standard AASB 124 Related Party Disclosures
- Accounting Standard AASB 10 Consolidated Financial Statements
- Accounting Standard AASB 11 Joint Arrangements
- Privacy and Personal Information Protection Act 1998 (PPIPA)
- Government Information (Public Access) Act 2009 (GIPA Act)

### Related policies and plans

- Staff – Provision of information to and Interaction between Councillors and Staff
- Code of Conduct

### Definitions

#### Related Parties

A person or entity that is related to the entity that is preparing its financial statements i.e. a related party is a party that exhibits control or joint control, or significant influence over the reporting entity or key management personnel of the reporting entity.

#### Related Party Transactions

A related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

#### Key Management Personnel (KMP)

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly. Council's KMP would include the Mayor, Councillors, General Manager and Directors.

#### Close Family Members

Close family members are people who can be expected to influence or be influenced by key management personnel and include that person's children and spouse or domestic partner; children of that person's spouse or domestic partner; and dependants of that person or that person's spouse or domestic partner.

#### KMP Compensation

Compensation includes all employee benefits (as defined in AASB 119 Employee Benefits) and include all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity. They include short term employment benefits e.g. wages etc; post employment benefits e.g. pensions; other long term benefits e.g. long service leave; and termination benefits.

#### Arm's length transaction

a transaction between two related parties that is conducted as if they were unrelated, so that there is no question of conflict of interest.

#### Control

is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

#### Joint control

is the contractually agreed sharing of control over an economic activity.

#### Significant influence

is the power to participate in the financial and operating policy decisions of an entity, but is not control over those policies. Significant influence may be gained by share ownership, statute or agreement.

#### Responsible Accounting Officer

a position of Council that has legislative responsibilities under the Local Government (General) Regulation 2005.

#### Material transaction

Transactions assessed as material based on some or all of the following criteria

- Significance in terms of size
- Carried out on non-market terms

- Outside normal day to day business operations
- Disclosed to regulatory or supervisory authorities
- Reported to senior management

## **Policy Statement**

Related Party relationships are a normal feature of business. Related parties may enter into transactions that unrelated parties would not. Therefore a related party relationship has potential to have an effect on the profit or loss and financial position of Council.

In addition, the profit or loss and financial position of an entity may be affected by a related party relationship even if related party transactions do not occur. The mere existence of the relationship may be sufficient to affect the transactions of the entity with other parties.

For these reasons, knowledge of Council's transactions and outstanding balances (including commitments and relationships with Related Parties) may affect the assessment of Council's operations by users of Financial Statements, including assessments of the risks and opportunities facing the Council.

This policy aims to achieve compliance with the disclosures requirements of AASB 124 by executing the following steps:

- (a) Identifying related party relationships and transactions.
- (b) Identifying outstanding balances, including commitments between an entity and its related parties.
- (c) Identifying the circumstances in which disclosure of the items in (a) and (b) is required.
- (d) Determining the disclosures to be made about those items.

## **Related Parties**

### Identification of Key Management Personnel (KMP)

KMP for Bathurst Regional Council are considered to include:

- The Mayor
- Councillors
- General Manager
- Directors

### Identification of Related Parties

A person or entity is considered a related party of Council if any of the following conditions apply:

- (a) They are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
- (b) They are an associate or belong to a joint venture which Council is part of.
- (c) They and Council are joint ventures of the same third party.
- (d) They are part of a joint venture of a third party and Council is an associate of the third party.
- (e) They are a post-employment benefit plan for the benefit of employees of either Council or an entity related to Council.
- (f) They are controlled or jointly controlled by close or possibly close members of the family of a person with significant influence over Council or a close or possibly close member of the family of a person who is a KMP of Council.
- (g) They are identified as a close or possibly close member of the family of a person with significant influence over Council or a close or possibly close member of the family of a person who is a KMP of Council.
- (h) They, or any member of a group which they are a part, provide KMP services to Council.

For the purposes of this Policy, related parties of Council are:

- (a) Entities related to Council.
- (b) KMP of Council.
- (c) Close family members of KMP.
- (d) Possible close family members of KMP.
- (e) Entities or persons that are controlled or jointly controlled by KMP, or their close family members, or their possible close family members.

Please see Appendix 1 for examples of common related parties of Council.

KMP will identify all entities that are controlled or jointly controlled by close family members through the self-assessment process. Should uncertainties or any other contentious issues arise during this process the KMP are responsible for discussing this with Council's Director Corporate Services & Finance who can consult Council's external auditor for clarification if necessary.

#### Annual Review of Related Parties

A review of KMP and their related parties will be completed at the beginning of each Financial Year. Whereby the identified KMP will be required to complete the Related Party Declaration (See Appendix 2) by 31 July and present this to Council's Manager Financial Services..

The method of identifying the close family members and associated entities of KMP will be by KMP self-assessment. KMP are responsible for keeping the Manager Financial Services updated when any changes to those related parties occur outside of those times.

Particular events, such as a change in Councillors, General Manager, or Directors will also trigger a review of Council's related parties immediately following such an event.

Council's Director Corporate Services & Finance will be responsible for identifying Council subsidiaries, associates and joint ventures.

Council's Manager Financial Services will maintain a register of all declared and identified related parties.

## **Related Party Transactions**

### Types of Transactions

The following are examples of transactions that are disclosed if they are transacted with a related party:

- Purchase or sale of goods
- Purchase or sale of property and other assets
- Rendering or receiving services
- Leases
- Quotations and/or tenders
- Commitments
- Settlements of liabilities on behalf of Council or by Council on behalf of the related party
- Grants and subsidy payments made to associated entities of Council
- Non-monetary transactions
- Compensation made to key management personnel and their close family members.

### Materiality of Transactions

AASB 124 grants Council discretion to use their judgement when determining the level of detail to be disclosed in the financial statements. It should be noted that Materiality is not simply determined by the value of a transaction, many other factors are considered. As well as considering the closeness of the related party relationship other factors to be considered when assessing related party transactions are:

- Significant in terms of size
- Carried out on non-market terms
- Outside normal day-to-day business operations, such as the purchase and sale of businesses
- Disclosed to regulatory or supervisory authorities
- Reported to senior management
- Subject to shareholder approval

### Ordinary Citizen Transactions

Ordinary citizen transactions are those transactions that are made on an arm's length basis between Council and related parties that an ordinary citizen of the community would transact with the Council.

Examples of these are rates payments for properties owned by the related party and dog registration payments.

Council will identify all transactions between Council and related parties. Any that are deemed to be ordinary citizen transactions will not typically be required to be disclosed in the annual financial report.

Transactions between Council and related parties that would normally be considered to be ordinary citizen transactions where the terms and conditions differ from normal practice will not be considered to be an ordinary citizen transaction for the purposes of this policy. These will be disclosed in Council's annual financial statements in the related party disclosure.

Please note that KMP are still required to notify the Manager Financial Services of these transactions via the process outlined below and the determination of whether or not disclosure is required is vested with the Director Corporate Services & Finance and Manager Financial Services. Should uncertainties or any other contentious issues arise during the process the KMP's are responsible for discussing this with Council's Director Corporate Services & Finance who can consult Council's external auditor for clarification if necessary.

#### Identification of all Related Party Transactions

All related party transactions will be captured to allow a full assessment of transactions that are to be included in the related party disclosure per the disclosure requirements contained in AASB 124.

This will also allow Council's external auditors to perform a full analysis of the entire process that results in the related party transaction disclosure.

All KMP will be required to complete and submit a Related Party Transaction Declaration (Appendix 3) to the Manager Financial Services, a notification advising of any known related party transactions that have occurred in the past 6 month period and any related party transactions that have the potential of occurring in the next 6 month period. A Nil notification will be required to be submitted to the Manager Financial Services if no transactions are required to be reported.

These notifications will be due to the Manager Financial Services by 31 January and 31 July covering the reporting periods from 1 July to 31 December and 1 January to 30 June respectively.

To ensure all related party transactions are captured and recorded, the Manager Financial Services is responsible for reviewing, if required, other sources of information held by Council including without limitation:

- A register of related parties or KMP and of persons related to the KMP
- Council's pecuniary interest returns
- Minutes of Council and Committee meetings
- Council's Contracts Register

Council's Manager Financial Services will maintain a register of all declared and independently identified related party transactions.

#### **Required Disclosures and Reporting**

AASB124 provides that Council must disclose the following financial information in its financial statements for each financial year period.



1. *Disclosure of any material related party transactions* – if there have been material transactions between related parties, Council must disclose the nature of the relationship with the related party, as well as sufficient information about the transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial statements.
2. *KMP Compensation Disclosures* – must disclose in the financial statement KMP compensation in total for each of the categories.

If an elected member or staff member is affected by the related party disclosure they will be given a copy of the disclosure to comment before the external audit is finalised. All comments will be considered, however, any deviations from the standard policy will not be included in the final disclosure. The General Manager will give the final approval of what will be contained in the disclosure.

## **Information Privacy**

### Confidentiality

The following information is classified as confidential and is not available for inspection by or disclosure to the public, including through a GIPA Act application.

- (a) Information (including personal information) provided by a KMP in a related party disclosure.
- (b) Personal information contained in a register of related party transactions.

### Storage of Information

Declarations and registers pertaining to the Council's related parties and related party transactions will be maintained within a secure and confidential location of Council's records management system.

### When Consent is Required

Except as specified in this Policy, Council and other permitted recipients will not use or disclose personal information provided in a related party disclosure by a KMP or contained in a register of related party transactions for any other purpose or to any other person except with the prior written consent of the subject KMP.

### Permitted Recipients and Permitted Purposes

For the purpose of this policy the following persons are permitted to access, use and disclose the information (including personal information) provided in a related party disclosure or contained in a register of declared related parties and/or related party transactions.

- (a) The General Manager
- (b) The Director Corporate Services & Finance and the Manager Financial Services
- (c) Public Officer
- (d) An Auditor of Council (including an Auditor from the NSW Auditor General's Office).

For the purpose of this policy any person specified above may access, use and disclose information (including personal information) in a related party disclosure or contained in a

register of declared related parties and/or related party transactions for the following purposes.

- (a) To access and verify a notified related party transaction.
- (b) To reconcile identified related party transactions against those notified in a related party disclosure or contained in a register of related party transactions.
- (c) To comply with the disclosure requirements of AASB124.
- (d) To verify compliance with the disclosure requirement of AASB124.

#### Government Information (Public Access) Act Status

The following documents are not open to or available for inspection by the public:

- (a) Related party disclosures provided by a KMP.
- (b) A register of related party transactions.

A GIPA Act application seeking access to:

- (a) A document or information (including personal information) provided by a KMP in a related party disclosure.
- (b) Personal information contained in a register of related party transactions.

will be refused on the grounds that the documents or information comprises information for which there is an overriding public interest against disclosure pursuant to Section 14 of GIPA Act.

A GIPA Act application seeking access to, and release of, transactional information and documentation about the subject of a related party transaction with Council will be considered assessed and decided in accordance with Council's usual procedures regarding applications made under the GIPA Act.

## Appendix 1

### Examples of common related parties of Council

#### Likely to be a Related Party of council

- Councillors (including the Mayor)
- General Manager (GM)
- Children of the Mayor, Councillors and the GM
- Spouse/Domestic Partners of the Mayor, Councillors and the GM
- Dependents of the Mayor, Councillors and the GM
- Dependents of a Spouse/Domestic partner of the Mayor, a Councillor or the GM
- Children of senior staff member that is a KMP
- Spouse/Domestic partners of a senior staff member that is a KMP
- Dependents of a senior staff member that is a KMP
- Dependents of a Spouse/Domestic partner of a senior staff member that is a KMP
- Entities that are controlled or jointly controlled by Council, a KMP or their close family member.

#### May be a Related Party of council

- Senior staff (if they are KMP they are a related party)
- Other family members of the Councillors, GM and senior staff that are KMP (if the family member may be expected to influence, or be influenced by, that person in their dealings with Council, then they are a related party).

*Disclaimer: This list contains a list of common related parties of council, however there may still be relationships not identified in this list that will meet the definition of a related party.*

**Appendix 2**



Location:  
Civic Centre  
158 Russell Street  
BATHURST NSW 2795

Telephone 02 6333 6111  
Facsimile 02 6331 7211  
council@bathurst.nsw.gov.au  
www.bathurst.nsw.gov.au  
www.bathurstregion.com.au

Correspondence to:  
Private Mail Bag 17  
BATHURST NSW 2795

**PRIVATE & CONFIDENTIAL**  
**RELATED PARTY DECLARATION BY KEY MANAGEMENT PERSONNEL**

<b>Name of Key Management Person:</b>	
<b>Position of Key Management Person:</b>	

List details of known close family members, entities that are controlled/jointly controlled by KMP and entities that are controlled/jointly controlled by the close family members of KMP.

Name of Person or entity	Relationship

I, ....., declare that the above list includes all my close family members and the entities controlled, or jointly controlled, by myself or my close family members. I make this declaration after reading the fact sheet supplied by council which details the meaning of the words "close family members" and "entities controlled, or jointly controlled, by myself or my close family members".

Declared at ..... on the .....

**Signature of KMP:** .....

**Full Name of KMP:** .....

**Date:** .....

*The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.*



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BATHURST NSW 2795

### RELATED PARTY TRANSACTION

**Note:** This document is confidential and is not accessible under the GIPA Act (2009). See Council's Related Party Disclosure Policy.

**Name of Key Management Person:** \_\_\_\_\_

**Position of Key Management Person:** \_\_\_\_\_

- a) Has previously entered into and which will continue in the 2016/2017 financial year, or  
b) Has entered into, or is reasonably likely to enter into, in the 2016/2017 financial year.

Description of Related Party Transaction					
Is transaction existing / potential					
Related Party's Name (individual's or entity's name)					
Related Party's Relationship / Reasons why related					
Description of Transaction Documents or Changes to the Related Party Relationship					

I, \_\_\_\_\_, notify that, to the best of my knowledge, information and belief, as at the date of this notification, the above list includes all existing and potential related party transactions with Council involving myself, close members of my family, or entities controlled or jointly controlled by me or close members of my family, relevant to the 2016/2017 financial year.

I make this notification after reading the Privacy Collection Notice provided by Bathurst Regional Council, which details the meaning of the works "related party", "related party transactions", "close members of the family of a person" and, in relation to an entity, "control" or "joint control", and the purposes for which this information will be used and disclosed.

I permit the Responsible Accounting Officer and the other permitted recipients specified in Council's Related Party Disclosure Policy to access the register of interest of me and persons related to me and to use the information for the purposes specified in that policy.

**Signature of KMP:** .....

**Full Name of KMP:** .....

**Date:** .....

*The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.*

Ref: 08.00016 | Issue Date: | Review Date: | Page 1 of 1

<b>POLICY:</b>	FLEA MARKETS – KINGS PARADE
<b>DATE ADOPTED:</b>	Director Corporate Serviced & Finance’s Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023-269
	Director Corporate Services & Finance’s Report #8.2.5 Council 18 August 2021 Resolution No. ORD2021/293 Council 22 September 2021 Resolution No. ORD2021/349
	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	04.00039, 41.00089
<b>OBJECTIVE:</b>	Establishment of guidelines for flea markets within Kings Parade.

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That Council permit “flea markets” to be held in Kings Parade subject to the following conditions:

- Flea market organiser required to provide a minimum of 5 weeks’ notice of flea market commencement.
- That application be made on a yearly basis to hold flea markets.
- The frequency of flea markets at Kings Parade is not to be more than once per month.
- All stalls to remain within the gravel path areas of the park.
- That the number of stalls be limited to a maximum of 50.
- Vehicle access within any area of the park is prohibited.
- Public Liability Insurance of \$20M covering all stallholders is to be provided by flea market organisers.
- That Council reserves the right to cancel specific market days, which, in the opinion of Council, may conflict with other organised events.
- That Council reserves the right to not allow a specific type of stall if it is believed to be offensive to the public or detrimental to the area.

- All litter generated by each event is to be collected and properly disposed of at the conclusion of the event, and the area is to be left in a clean and tidy state.
- Any damage to the area, and attributable to the staging of each event, will be the responsibility of market organisers to rectify, to Council's satisfaction.

<b>POLICY:</b>	FRIENDSHIP AGREEMENT – GWANGJU COUNCIL, KOREA
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120  Director Corporate Services & Finance’s Report #8.3.7 Council 21 April 2021 Resolution No. ORD2021-111 Council 19 May 2021 Resolution No. ORD2021-133  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	23.00011
<b>OBJECTIVE:</b>	To explore opportunities for the collaboration between the two parties.

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That the Bathurst Regional Council and the Gwangju Council being under a city administrated in Gyunggi-do, South Republic of Korea enter a Memorandum of Understanding to explore opportunities for the collaborative development of research, the organisation of joint academic and scientific, technical activities, cultural and artistic activities, the exchange of research and teaching personnel and students, the exchange of publications and other materials of common interest, the exchange of business and commercial interest and such other collaborative activities that may be agreed between the parties.

Following is a copy of the Memorandum of Understanding.



## MEMORANDUM OF UNDERSTANDING FOR FRIENDSHIP CITY COOPERATION

### BETWEEN

Bathurst Regional Council being under Administration as a result of State Government changes to the boundaries of the central west of New South Wales, Australia (hereafter 'BRC')

### AND

Gwangju Council being under a city administrated in Gyunggi-do, South Republic of Korea. (hereafter 'GJC')

### BACKGROUND

- A. BRC and GJC recognise the mutual benefits that can be gained through a cooperative program promoting exchange activities and international understanding.
- B. The parties accordingly wish to enter a Memorandum of Understanding to explore opportunities for the collaborative development of research, the organisation of joint academic and scientific, technical activities, cultural and artistic activities, the exchange of research and teaching personnel and students, the exchange of publications and other materials of common interest, the exchange of business and commercial interest and such other collaborative activities that may be agreed between the parties.
- C. It is the intention of the parties that this memorandum provides a framework for the creation of future agreements or contracts between the parties in the areas of collaboration identified by the parties as being of mutual benefit.
- D. The parties expressly acknowledge the necessity to, and will, comply with the laws in place in their respective jurisdictions and agree that this Memorandum, and any rights or obligations arising under any separate agreement, will be subject to the laws in place in their respective jurisdictions from time to time.
- E. The parties agree that any agreement to collaborate in relation to specific activities will be documented separately and that this Memorandum should not give rise to any legal obligations on either party.

## UNDERSTANDING

### 1. OBJECTIVES

- 1.1 The parties aim to facilitate cooperation and collaboration in the following areas:
- a) the promotion of artistic and cultural activities;
  - b) the promotion of business and commercial technology;
  - c) the exchange of publications and other materials of common interest;
  - d) programs to improve awareness of international development in higher education
  - e) such other areas of collaboration as may be agreed between the parties.
- 1.2 Cooperative activities under this Memorandum may include any of the administrative department of BRC and GJC.

### 2. FACILITATION OF COLLABORATION

- 2.1 In order to carry out and fulfil the aims of this Memorandum, BRC and the GJC will each appoint a Coordinator, as set out in Item 3 of Schedule 1 to this Memorandum, who will negotiate and manage the development of any collaborative activities.
- 2.2 Either party may initiate proposals for activities under this Memorandum at any time.
- 2.3 Specific details of any activity will be documented in a separate contract or agreement and will be executed in accordance with the policies and procedures in place at each council from time to time.
- 2.4 The Coordinators will be responsible for the evaluation of any future collaboration.

### 4. TERM AND TERMINATION

- 4.1 This Memorandum commences on the date specified in Item 1 of Schedule 1 to this Agreement and will remain in force for a period of three (3) years from that date.
- 4.2 Either party may terminate this Memorandum at any time and for any reason with immediate effect by giving written notice to the other party.
- 4.3 The termination of the Memorandum will not affect any rights or obligations under any Agreement entered between the parties pursuant to this Memorandum or otherwise.

**5. NOTICES**

- 5.1 A Notice under this Memorandum will be in writing and sent by e-mail, mail or facsimile to the respective address in Item 2 of Schedule 1, or such revised address notified in accordance with clause 5.2.
- 5.2 A party which changes its address or facsimile number for the purpose of Notices under this Memorandum will endeavour to give notice of that change to the other party by both facsimile and electronic mail within (7) days of the change.

**6. VARIATION**

- 6.1 This Memorandum may only be altered in writing to the address provided in Item 2 of Schedule 1 and which is signed by the officer of both parties authorised by their respective councils to sign this agreement.

**7. GOVERNING LAW**

- 7.1 This Memorandum is governed by and construed in accordance with the law in force in the state of New South Wales, Australia and South Republic of Korea and will be subject to the jurisdiction of the courts of that state.

**8. STATUS OF PARTIES**

- 8.1 Nothing in this Memorandum will be interpreted to create or imply a relationship between the parties of partner, agent or employee nor will any party hold itself out as being, a partner, employee or agent of the other party.
- 8.2 Neither party will be liable for acts or omissions of the other, and the parties agree to hold each other indemnified for the acts or omissions of the other.

**9. AUTHORITY**

- 9.1 The signatories hereby personally warrant that they have express and sufficient authority to sign this Memorandum on behalf of the party on whose behalf they have signed.

EXECUTED AS A MEMORANDUM OF UNDERSTANDING ON

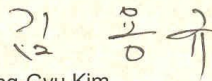
2ND OF NOVEMBER 2004.

SIGNED for  
Bathurst Regional Council


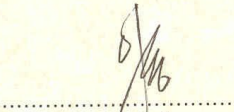
Gwangju Council



Cr Kath Knowles  
Administrator



Mr Yong-Gyu Kim  
Mayor

  
.....  
Signature of witness  
.....  
Signature of witness

DAVID SHERLEY  
Name/Position of witness (print)  
GENERAL MANAGER

이 유 경  
Name/Position of witness (print)  
광주시 기획국장

**SCHEDULE 1.**

Item 1. This Memorandum of Understanding commences the  
..... day of ....., 2004

Item 2. The respective addresses and correspondences are as follows;

Bathurst Regional Council  
Cnr of Russell and William Streets  
Bathurst NSW 2795  
Australia

Ph. + 61 2 6333 6205.  
Fax +61 2 6331 7211 .....  
E-mail: [council@bathurst.nsw.gov.au](mailto:council@bathurst.nsw.gov.au)

Gwangju Council  
120-8 Songjeong-dong  
Gwangju City, Gyunggi-do  
South Korea

Ph. +82 31 .....  
Fax +82 31 .....  
E-mail:

Item 3 Appointed coordinator of each council

Bathurst Regional Council

Ms Victoria Jackson

Ph. +61 2 6333 6182

Fax. +61 2 6331 7211

E-mail: [victoria.jackson@bathurst.nsw.gov.au](mailto:victoria.jackson@bathurst.nsw.gov.au)

Gwangju Council

Mr/Ms/Dr.....

Ph.....

Fax.....

E-mail.....

<b>POLICY:</b>	FUTUREPROOFING OUR CBD - 2022 AND BEYOND
<b>DATE ADOPTED:</b>	Director Environmental, Planning & Building Services Report #9.2.5 Council 21 September 2022 Resolution Number: ORD2022-323
<b>ORIGINAL ADOPTION:</b>	Director Environmental, Planning & Building Services Report #9.2.5 Council 21 September 2022 Resolution Number: ORD2022-323
<b>FILE REFERENCE:</b>	11.00039/203
<b>OBJECTIVE:</b>	To establish the guiding principles to support future decision making in ensuring the public realm of the CBD responds to changing community values and economic and environmental influences over time.

## 1.0 BACKGROUND:

### Bathurst Town Centre Master Plan

The Bathurst Town Centre Master Plan 2021 provides a vision for improving seven city blocks within the Bathurst CBD, an area known as the Bathurst Town Centre.

Allen Jack + Cottier Architects (AJ+C) were invited to prepare the Master Plan for Bathurst Regional Council. The project was co-sponsored by Charles Sturt University (CSU), who were investigating the opportunities for a Bathurst CBD Campus at that time.

The Master Plan outlines AJ+C's analysis of the existing condition of the Town Centre, the outcomes of stakeholder and community engagement undertaken in the development of the draft plan, and then makes several site or area-specific recommendations as well as Centre-wide master plan proposals. As CSU decided not to proceed with an investigation of a CBD Campus, several options explored for campus facilities were identified as open opportunities for other uses.

'**Futureproofing our CBD**', Council's Response to the Bathurst Town Centre Master Plan, summarises the key concepts proposed in the A J + C Master Plan. The '**Futureproofing our CBD**' response did **not** recommend wholesale adoption of the Master Plan but outlined those elements of the Master Plan considered appropriate, at that time, for consideration of their implementation into the future.

The community's response to Council's '**Futureproofing Our CBD**' report was sought through a formal public exhibition process. "**Futureproofing Our CBD**" was exhibited for a one-month period with submissions closing on **24 May 2021**.

A range of voices were heard and messages received during the public exhibition period. These were collated in the report: Futureproofing our CBD (Council's Response to the Bathurst Town Centre Master Plan) – "What Bathurst Said".

Relevant documents are available at:

<https://yoursay.bathurst.nsw.gov.au/bathursttowncentre/widgets/278695/documents>

## Street as Shared Spaces

At about the time Council placed its proposed response to the Master Plan on public exhibition Council was successful in attracting a substantial grant (\$767,884) under the NSW Government's Streets as Shared Spaces (SaSS) program round 1.

The NSW Government's Streets as Shared Spaces program provided one-off grant funding to support local councils to test and pilot new and innovative ideas for streets as safe, shared public spaces.

The Pilot project and the additional grant received under round 2 of the program enabled Council to trial a number of the suggestions outlined in the Bathurst Town Centre Master Plan.

The SaSS projects have highlighted the value in trialing change in stages rather than seeking wide ranging irreversible change. This has proved a very effective method of engaging with the community as to how that change is best managed and achieved.

## This Policy

This policy seeks to respond to the Bathurst Town Centre Master Plan and the community's response to it and the lessons learnt from the Streets as Shared Spaces Pilot projects. It sets the guiding principles for future change within the CBD to ensure impacts on the public realm respond to changing community values and economic and environmental influences. Decisions involving future changes will need to assess their consistency against these Principles. Those decisions can reference the Master Plan report for possible solutions or adapt solutions to suit the circumstances of the case or develop new solutions, provided they respond to the principles of the Policy. Other strategies and plans will also inform those decisions including for example the future Active Transport Strategy and a revised Retail Strategy. Importantly, community engagement can continue as each new decision is made.

### **2.0 AIM OF THIS POLICY:**

The policy aims to guide change in the public realm of the Bathurst CBD, whether owned publicly or privately.

### **3.0 OBJECTIVE OF THIS POLICY:**

The objective of this policy is to establish the guiding principles to support future decision making to ensure the public realm of the CBD responds to changing community values and economic and environmental influences over time.

This policy seeks to ensure that change within the public realm of the Bathurst CBD is positive and negative impacts are minimised and mitigated.

### **4.0 LAND TO WHICH THIS POLICY APPLIES:**

This policy applies to lands located within the Central Business District (CBD) of the City of Bathurst, generally being those lands located within the extent of lands zoned B3 Commercial Core under Bathurst Regional Local Environmental Plan 2014.

The public realm is those spaces around, between and within buildings that are publicly accessible and visible including streets, plazas, parks, footpaths, laneways, parks and open spaces.

This policy applies to changes that may be made to land, buildings, streets, lanes, footpaths,

parks, spaces, views and vistas that may impact or change the public realm of the Bathurst CBD.

This policy applies to privately owned land to the extent to which new development on private land impacts on the public realm.

## **5.0 GUIDING PRINCIPLES TO SUPPORT FUTURE DECISION MAKING TO ENSURE THE PUBLIC REALM OF THE CBD MEETS COMMUNITY EXPECTATIONS:**

The Council will consider the following guiding principles (as applicable) when making decisions that impact on the public realm (private or public) of the Bathurst CBD.

### **5.1 Sense of Place - How does change engage the Bathurst Town Centre.**

Considerations include:

- the geographical grid layout of the Bathurst Town Centre, inclusive of the meridian ridge line and the respective falls to the northwest and southeast.
- the role of the Bathurst Town Square as the centre of the Bathurst Town Centre.
- the role of the Carillon, located on the meridian ridge and as the high point of the city,
- Bathurst's two- and three-storey street frontage rhythm and character.
- significant stories and memories of place recognising cultural longevity and promoting its greater visibility (including relating to Aboriginal culture and heritage).
- the extent the community and visitors enjoy being in and take pride in the Bathurst Town Centre.

### **5.2 Heritage and Streetscape - How does change integrate with the Bathurst Town Centre and its heritage streetscapes and parklands.**

Considerations include:

- scale, bulk, massing, form, and siting of new development to complement and improve the quality and amenity of the public domain.
- the external appearance of new development (building design, character, materials, colours, and detailing) and how it might improve the quality and amenity of the public realm.
- the design of new development and how it responds to and mitigates its potential to impact other property and the public realm in terms of, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.
- protecting heritage assets and encouraging adaptive reuse of heritage building stock.

### **5.3 Landscape and environment - How does change respond to and integrate with the environment and landscape of the Bathurst Town Centre.**

Considerations include opportunities to improve:

- amenity by connecting to networks of open space.
- the quality and the value of the public realm.
- the amenity of streets and public spaces through landscaping and vegetation, using plant species which are particular to the Bathurst Town Centre.
- water and air quality by utilising sustainable and resilient infrastructure.



**5.4 Economic vitality** - How does change revitalise the Bathurst Town Centre and particularly activate the streets of the Bathurst Town Centre.

Considerations include:

- encouraging economic activity that creates a distinct and attractive place for business to trade and invest, and for people to visit.
- creating new or improved places for people and communities to gather, meet and interact that are safe enjoyable and equitable, inclusive of the provision of street furniture.
- encouraging opportunities for events.
- encouraging night-time activation.

**5.5 Connection** - How does change prioritise connectivity and walkability.

Considerations include:

- contributing to walkable blocks, particularly at mid-block locations.
- increasing pedestrian traffic and contributing to business exposure in the public realm.
- encouraging people to walk around the Bathurst Town Centre by integrating pedestrian paths with vehicle access and designated parking areas.
- connecting significant natural features, buildings, views and cultural assets to make the Bathurst Town Centre more navigable, accessible, engaging and attractive and to reinforce local character, including new places to sit, rest and socialise.
- slowing traffic and minimising unnecessary truck movements.
- increasing pedestrian safety by designing for a balance of all users (pedestrian, cyclist or vehicular) with differing abilities.
- encouraging temporary road closures and events spaces.

**5.6 Traffic and Parking** - How does change manage disruptions to traffic and parking and enhance opportunities for public and active transport.

Considerations include:

- offsetting on-street car parking losses with new off street parking opportunities.
- providing drop off and pick up kerb side spaces.
- signalisation of intersections and the prioritisation of traffic and off street car parking locations away from the CBD high streets.
- encouraging opportunities for new forms of travel into, through and out of the Bathurst Town Centre including cycling, park and ride, shuttle services and EV infrastructure.

**5.7 Climate and Resilience** - How does change respond to climate conditions and their impacts on the Bathurst Town Centre.

Considerations include:

- new water conservation infrastructure.
- mitigating the effect of summers with increasing temperatures and declining rainfall, particularly through appropriate landscaping and greenery.
- mitigating the predominant winter winds and their impact in the public realm.

**5.8 Liveability** - How does change encourage new employees to work and new residents to live in the Bathurst Town Centre.

Considerations include:

- adaptive reuse of heritage assets for commercial and residential opportunities.
- redevelopment of centre block locations and mid-block laneway improvements to open the centre of blocks and vacant lands.
- identification of opportunities to appropriately increase living and built form density (e.g. building height, floor space ratio, better utilisation of on ground car parking air space, alterations to residential density standards) in ways that mitigate impacts to street frontage rhythm and character.
- enhancing public safety particularly at night-time.

## **6.0 COMMITMENT TO COMMUNITY ENGAGEMENT**

In guiding change under the principles of this Policy, Council commits to ongoing engagement with the community including the business community.

Where appropriate, Council will seek to trial change in stages rather than seeking wide ranging irreversible change as an effective method of engaging with the community as to how that change is best managed and achieved.

## **7.0 MODELLING CHANGE**

3D modelling can provide an invaluable tool in simulating change within the CBD to aid decision making under this Policy.

In guiding change under the principles of this Policy, Council may require the submission of digital data in a format prescribed by Council for the purpose of 3D modelling. This data may be used by Council for community consultation/engagement purposes.

### 3.7. G

<b>POLICY:</b>	GATHERING INFORMATION
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report 8.3.5 Council 22 September 2021 Resolution Number: ORD2021-330 Council 20 October 2021 Resolution Number: ORD2021-349  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #16 Council 20 July 2005 Minute Book No. 9599
<b>FILE REFERENCE:</b>	03.00005, 03.00006
<b>OBJECTIVE:</b>	To implement a system of gathering information in the event of a public liability incident

## OBJECTIVE AND RATIONALE

To implement a system of gathering information in the event of an incident that may give rise to a public liability claim against Council. This policy will allow Council to provide its insurers with early information that enables them to provide the best possible defence for Council in the event of a claim.

## POLICY APPLICATION

The policy will be used to identify methods of gathering information and the types of information required. The Policy will be applied to all of the functional areas of Council.

## ORGANISATIONAL RESPONSIBILITIES

### Duty of General Manager

The General Manager acknowledges overall responsibility for the effective management of information gathering systems within Council.

### Duties of WHS Coordinator

The WHS coordinator is responsible, within the scope of his authority, for:

- Integrating information gathering processes into staff work practices

- Providing appropriate information gathering training when a need is identified
- Implementing the information gathering system and completing all associated tasks
- Consulting identified stakeholders (employees, contractors, public committees, general public) when implementing the information gathering processes.

#### Duties of staff

Employees are responsible for:

- Completing all documentation and training which supports the information gathering process.
- Complying with information gathering training and processes whilst completing duties

#### Duties of Contractors

Contractors are responsible for:

- Completing (where appropriate) all documentation and training which supports the information gathering process.

### **INFORMATION GATHERING PROCESS**

The information gathering process will:

- Define the type of information required
- Define the methods of collecting the required information
- Identify the reasons for collecting each particular type of information
- Identify the person responsible for collecting the information
- Identify systems of alerting Council officers and Council's insurer to a possible liability claim.

### **DOCUMENTATION**

Council will maintain records of all information gathering documentation to facilitate monitoring, review and auditing of the information gathering system and process.

### **SYSTEM REVIEW**

The Information Gathering system will be regularly reviewed.

<b>POLICY:</b>	GIFTS & BENEFITS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.2.9.1 Council 2 February 2022 Resolution No ORD2022-43 Council 16 February 2022 Resolution No ORD2022-55
	Director Corporate Services & Finance's Report #8.3.5 Council 22 September 2021 Resolution No ORD2021-330 Council 20 October 2021 Resolution No ORD2021-349
<b>ORIGINAL ADOPTION:</b>	Director Corporate Service & Finance's Report #1 Policy 6 September 2006, Council 20 September 2006 Minute Book No. 9950
<b>FILE REFERENCE:</b>	18.00013
<b>OBJECTIVE:</b>	To clearly define the parameters relating to the acceptance of gifts and benefits by Councillors and staff of Bathurst Regional Council.

## Summary

This Policy supports Council's Code of Conduct and provides procedures and guidance to Councillors and Staff for managing gifts and benefits. Councillors and staff of Council must comply at all times with this policy.

## Policy

Councillors and staff must not:

- Seek or accept a bribe or other improper inducement and/or
- By virtue of your position acquire a personal profit or advantage which has a monetary value.

Councillors and staff must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- Act in a particular way (including making a particular decision)
- Fail to act in a particular circumstance; and
- Otherwise deviate from the proper exercise of your official duties.

## Gifts and benefits of value:

Councillors and staff must:

- never accept an offer of money, regardless of the amount.
- not accept gifts and benefits that have more than a nominal or token value.
- take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members include parents, spouses, children and siblings.

Provided at Appendix 1 are some examples of gifts or benefits of value.

In circumstances where a gift of value cannot reasonably be refused or returned, Councillors and staff may accept the gift but disclose it immediately to the General Manager or his delegate, or the Mayor, who will then record it in the Council's Gifts Register. Disclosure will be by completion of the Record of Gifts and Benefits Form provided as Appendix 2.

Examples of circumstances where a gift cannot reasonably be refused or returned include anonymous gifts received through the mail or left for the Council official without a return address, gifts accepted for cultural, protocol or other reasons, where returning it would be inappropriate or a gift received in a public forum where attempts to refuse or return the gift would cause significant embarrassment.

### **Gifts and benefits of nominal value**

You may accept gifts or benefits of a nominal or token value<sup>1</sup> that do not create a sense of obligation on your part.

Provided at Appendix 1 are some examples of gifts or benefits of nominal or token value.

### **Procurement**

Individuals who have any role in the procurement process e.g., raising of orders, authorisation of orders and approval of payments to suppliers, must **NOT** accept any gifts of **ANY** value that emanate from this procurement role.

Should a gift be received or offered this should be reported immediately to your supervisor and the corporate governance section.

### **Gifts Register**

The General Manager will establish and maintain the Council's Gifts Register that will as a minimum contain the following information:

- Gift recipient
- Nature of gift
- Estimated value (if available)
- Person giving gift
- Reason for gift

## Returns of interest

Councillors and staff who are designated persons must by law disclose any gift(s) received in the period up to 30 June in each year. This must be disclosed in the disclosure of interests returns required under Clause 4.21 of Council's adopted Code of Conduct.

## Appendix 1

### Gifts and benefits of value

- These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training sessions, and/or
- Situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the council.
- See also Clause 6.9 of Council's adopted Code of Conduct.

### Gifts and benefits of nominal value

Generally speaking, these include:

- Gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture / training session / address);
- Free or subsidised meals of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business;
- Refreshments of a modest nature, provided at conferences where you are a speaker;
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers; and
- Invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as council committees and community organisations.
- See also Clause 6.8 of Council's adopted code of Conduct.



**Appendix 2  
Record of Gifts and Benefits Form**

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name of Recipient of Gift:

\_\_\_\_\_

Department:

\_\_\_\_\_

Description of Gift Received:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Estimated Value (if known):

\_\_\_\_\_

**Person providing Gift and Organisation to which they belong**

Name:

\_\_\_\_\_

\_\_\_\_\_

Organisation:

\_\_\_\_\_

\_\_\_\_\_

Reason for Gift (if known):

\_\_\_\_\_

\_\_\_\_\_

Noted by General Manager: \_\_\_\_\_

(Signature)

Date Noted: \_\_\_\_\_

**OFFICE USE ONLY**  
  
Page No: \_\_\_\_\_

<b>POLICY:</b>	GOVERNANCE – PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #9.3.5 Ordinary Council Meeting 27 April 2022 Resolution Number: ORD2022-131
	Director Corporate Services & Finance Report #1 Policy 4 September 2019 Council 16 October 2019 Minute Book No. 13040
	Director Corporate Services & Finance Report #1 Policy 3 July 2019 Council 17 July 2019 Minute Book No. 12999
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance Report #1 Policy 1 December 2004 Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	11.00008
<b>OBJECTIVE:</b>	Provide guidelines for payment of expenses and provision of facilities for Councillors in accordance with the Local Government Act.

## 1. PURPOSE

Section 252 of the Local Government Act 1993, requires Councils to adopt a policy for the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and Councillors.

The policy identifies expenses that will be paid and facilities that will be provided, to the Mayor, Deputy Mayor and Councillors in relation to discharging the functions of civic office.

**In the event that an Administrator is appointed for Bathurst Regional Council, this policy will apply to the Administrator in the same manner as the Mayor.**

## 2. OBJECTIVE

- To ensure that no Councillors suffer hardship by reason of meeting their civic responsibilities as an elected person.
- To adequately reimburse Councillors for expenses incurred in the performance of their duties, including expenses incurred in becoming adequately informed on subjects relevant to their civic duties.

## 3. STATEMENT OF PRINCIPLES

The Councillors are the elected governing body of Bathurst. To assist them to discharge their civic, statutory and policy making functions, they are entitled to be provided with the range of necessary facilities and to be reimbursed the expenses specified in this policy.

Recognising the special role of the Mayor this policy allows for the payment of some additional expenses and the provision of some additional facilities.

Claims for facilities and expenses not included in the policy will not be approved.

Where replacement equipment or facilities is required, Council's policy on plant and asset replacement will be followed. Equipment and facilities will be compatible with and of the same standard as other Council equipment and facilities.

Council's facilities and services, as detailed in this Policy, are available to Councillors while carrying out the functions of civic office. These facilities and services are not available for use by members of a Councillor's family, unless the use is directly related to attendance at a civic function or to another aspect of the Councillor's civic duties.

#### **4. LEGISLATIVE & LEGAL REQUIREMENTS**

The Local Government Act 1993 (Chapter 9, Part 2, Division 5) states:

##### 248 Fixing and payment of annual fees for Councillors

- (1) A Council must pay each Councillor an annual fee.
- (2) A Council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each Councillor.
- (4) A Council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

##### 248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

##### 249 Fixing and payment of annual fees for the Mayor

- (1) A Council must pay the Mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the Mayor as a Councillor.
- (3) A Council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- (5) A Council may pay the Deputy Mayor (if there is one) a fee determined by the Council for such time as the Deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor's annual fee.

##### 250 At what intervals are fees to be paid?

Fees payable under this Division by a Council are payable monthly in arrears for each month (or part of a month) for which the Councillor holds office.”

251 What is the consequence of paying fees?

- (1) A person is not, for the purposes of any Act, taken to be an employee of a Council and is not disqualified from holding civic office merely because the person is paid a fee under this Division.
- (2) A fee paid under this Division does not constitute salary for the purposes of any Act.”

252 Payment of expenses and provision of facilities

- (1) Within the first 12 months of each term of a council, the 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.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

253 Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) (Repealed)
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 Decision to be made in open meeting – Section 254

The Council or a Council committee all the members of which are Councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or at which any proposal concerning those matters is discussed or considered.

254A Circumstances in which annual fees may be withheld

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to councillor or that a councillor will be paid a reduced annual fee determined by the council:
  - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or

(b) in any other circumstances prescribed by the regulations.

**Note.** Section 428 (2) (f) requires a council to include, in its annual report:

- the total amount of money expended during the year on mayoral fees and councillor fees
  - the council's policy on the provision of facilities for, and the payment of expenses to councillors
  - the total amount of money expended during the year on providing those facilities and paying those expenses.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

The Local Government (General) Regulation 2005 states:

404 Circumstances in which Councillors' annual fees may be reduced or not paid.

For the purposes of Section 254(A) of the Act, the prescribed circumstance for the non-payment or reduction of a Councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) The payment of the annual fee adversely affects the Councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including NSW),
- (b) The Councillor agrees to a non-payment or reduction.

## 5. REPORTING REQUIREMENTS

The Local Government Act, 1993 imposes reporting requirements on Councils. Council's Annual Report satisfies the reporting requirements imposed under the Local Government Act 1993 and the Local Government (General) Regulation 2005.

## 6. OTHER GOVERNMENT POLICY PROVISIONS

This policy has been developed in accordance with the following policies and documents provided by various government departments.

- Office of Local Government Guidelines for Payment of Expenses and Provision of Facilities to Mayors and Councillors.
- Office of Local Government Circulars (issued from time to time) including but not limited to:-
  - 04/04 Appropriate Controls on the use of Council Credit Cards
  - 05/08 Legal Assistance for Councillors and Council Employees
  - 08/24 Misuse of Council Resources
  - 08/37 Council decision making prior to ordinary elections
- Office of Local Government Model Code of Conduct.
- Council's Adopted Code of Conduct
- Various ICAC Publications.

## 7. ANNUAL FEE

Pursuant to Section 248 of the Local Government Act, 1993, an annual fee will be paid to each Councillor in twelve instalments (monthly in arrears). In addition to this, the Mayor will be paid an annual fee in accordance with Section 249 of the Act, to be paid in twelve instalments (monthly in arrears). The amount to be paid will be as determined by the Local Government Remuneration Tribunal and adopted in Council's Management Plan for that year.

Councillor's will be entitled to Superannuation payments from 1 July 2022 at the equivalent amount provided for, under the Commonwealth superannuation legislation the payment will need to be made into a complying superannuation fund which will be nominated by the Councillor. [Refer DCSF #7.1.2 Extraordinary meeting 23 June 2021].

## **8. ACCESS AND USE OF FACILITIES/EQUIPMENT**

Councillors are to be provided with access and use of the following:

- (i) A room suitably furnished for use by all Councillors;
- (ii) Access to a motor vehicle if available, or alternative arrangement (eg hire car), for the purposes of attending official functions or meetings outside the Council area; (see also Clause 15);
- (iii) Use of Council photocopiers, telephones, computers, (& associated equipment) and fax machine in the course of the Councillor undertaking official business.

### **(iv) Access to Council Operated Facilities**

To assist Councillors to understand the operations of and to promote the various facilities to the community, Council will provide each Councillor with

- (a) annual admission (for the use of the Councillor only) to the following Council operated facilities:
  - Australian Fossil and Mineral Museum
  - National Motor Racing Museum
  - Chifley Home and Education Centre
  - Rail Museum
- (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.

### **(v) Access to Motor Sport Events**

To assist Councillors to promote Bathurst and network with dignitaries, Council will provide four (4) tickets per Councillor to attend all days of each motor racing event (including attendance at Mayoral functions) that requires full track closure at Mount Panorama.

At some events, Councillors may be provided with access to a reserved parking allocation for one vehicle per Councillor.

In addition to those facilities/equipment listed above, the Mayor will be provided with the use of:

- (vi) An office suitably furnished
- (vii) Mayoral robes and chains;
- (viii) A corporate credit card to meet expenses connected with the entertainment of guests of the city;
- (ix) A “Rex” card to allow the Mayor access to the Rex lounge at the airport for the conduct of meetings and whilst waiting between meetings and flights (a card will also be provided to the Deputy Mayor for official use).

## 9. PROVISION OF EQUIPMENT

Each Councillor will be provided with the following:

- (i) Business cards.
- (ii) Councillor letterhead.
- (iii) A name badge.
- (iv) Stationery, office supplies and other consumables.
- (v) Provision of car parking sticker for parking in designated/authorised parking areas.
- (vi) A corporate credit card to meet expenses as authorized in carrying out the Councillor’s role.
- (vii) Each Councillor will be provided with the following for Council use:
  - A computer, e.g. i-Pad or Laptop and associated equipment (printer etc.)
  - Access to the internet.
  - Facsimile transmission device (Fax) (including installation at the principal place of residence).
  - A document shredder.

NB: All rental, call and stationery costs incurred in the course of Council activities will be met by Council.

- (viii) Councillors will have the following options in relation to telephone calls made in the course of Council business:
  - a. Council will reimburse Councillors for the cost of official mobile and landline calls made in the course of Council business up to a limit of \$100 per month. Claims for reimbursement of calls must be made on the appropriate expenditure claim form.
  - or**
  - b. Council will provide Councillors with a mobile phone for Council business, limited to an amount of \$100 per month.

In addition to the equipment listed above the Mayor will be provided with the following:

- (ix) A mobile phone with rental and all charges to be met by Council;
- (x) A motor vehicle (including private use) on the basis that all costs are met by the Council. NOTE – that during periods of “leave of absence” of the Mayor the vehicle

will be made available to the Deputy Mayor under the same terms and conditions.

- (xi) A permanently allocated parking space.

**Note: A person's re-election to the Council is considered a personal interest. Official Council material such as letterhead, publications, websites, email, as well as council services and forms must not be used for any such personal interests.**

### **9.1 Acquisition and Return of Council Equipment and Facilities by Councillors**

All equipment provided to the Mayor, Deputy Mayor or a Councillor to assist them to carry out their official duties remains the property of Council and is to be returned to Council upon the Mayor or the Councillor ceasing to hold office.

A Councillor may at the cessation of their duties request to purchase the equipment provided to them for their official duties or part thereof. Any items offered for sale to a Councillor under this clause will be offered on the basis that they are valued at a fair market price or the current written down value, whichever is the greater.

### **9.2 Private Benefit**

Councillors should not generally use Council equipment for their own personal benefit. However, it is acknowledged that incidental use of Council equipment for private benefit may occur. Such incidental use will not be subject to repayment.

Where more substantial use of Council equipment occurs Council will seek reimbursement at a rate determined by the

- (i) Mayor/Deputy Mayor and the General Manager or
- (ii) the Council,

depending upon the circumstances.

## **10. ADMINISTRATIVE SUPPORT**

Councillors will be provided with secretarial support in relation to official correspondence.

## **11. TRAINING**

Councillors will be provided with training to enhance their ability to carry out their civic responsibilities. An allowance is made in the annual budget for provision of training to Councillors. The type of training attended would normally be approved by the Council but may, in some circumstances, be approved by the Mayor.

## **12. INSURANCE**

Council will provide appropriate insurance for Councillors including insurance against personal injury whether fatal or not, arising out of, or in the course of carrying out duties, or the performance by such Councillor at functions in his/her capacity as a member of Council.



Council will provide the following Insurance cover for Councillors undertaking official Council business:

- Public Liability.
- Councillors and Officers.
- Personal Accident.
- Travel Insurance (where approved) for interstate and overseas travel on Council business.

### **13. SUSTENANCE/MEALS**

Councillors are entitled to the provision of a meal and/or refreshments in conjunction with the Committee/Council meeting or at any official ceremony authorised by Council or the Mayor, or in carrying out their Councillor's responsibilities including meetings with residents, ratepayers or guests of the city.

### **14. LEGAL**

In the event that indemnity is not granted under the existing Councillors and Officers liability policy in relation to:

- (a) any enquiry, investigation or hearing into the conduct of a Councillor:
- (i) by the Independent Commission Against Corruption;
  - (ii) by the Office of the Ombudsman;
  - (iii) by the Administrative Decisions Tribunal;
  - (iv) by the Office of Local Government, Department of Premier and Cabinet
  - (v) by the NSW Police Force;
  - (vi) by the Director of Public Prosecutions;
  - (viii) by Council's Conduct Review Committee/Reviewer
  - (ix) by the Local Government Pecuniary Interest Tribunal; or
  - (ix) pursuant to FOI legislation;
  - (x) pursuant to Privacy and Personal Information Protection legislation
- (b) legal proceedings against a Councillor:

Council shall reimburse such Councillor on a solicitor/client basis for all legal and associated expenses properly and reasonably incurred having regard to the nature of the enquiry, investigation, hearing or proceedings, provided that:

- (i) the enquiry, investigation, hearing or proceedings relate to conduct arising out of or in connection with a Councillor's performance of his or her civic duty or the exercise of his or her functions as a Councillor;
- (ii) the enquiry, investigation, hearing or proceedings have been finalised and have resulted in a finding, in the opinion of the Council, substantially favourable to the Councillor;
- (iii) the amount of any such reimbursement shall be limited to the amount of moneys that are not otherwise recoverable by a Councillor on any other basis;
- (iv) the Council authorises the reimbursement by resolution.

Note: Council cannot pay any legal expenses for

- (a) legal proceedings initiated by a councillor
- (b) a councillor seeking legal advice in respect of possible defamation

## 15. EXPENSES

- (a) Council will reimburse claims for expenses for actual costs incurred by Councillors in relation to discharging the functions of civic office.

The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Council will not pay expenses or provide facilities to councillors in relation to supporting and/or attending such activities and events.

- (b) In relation to discharging the functions of civic office, the following facilities will be provided:

- Mayoral Office.
- Councillors' meeting room.
- Provision of a meal/refreshments in conjunction with the Committee/Council meeting.

- (c) Where a Councillor provides his/her own motor vehicle for transport in relation to discharging the functions of civic office, reimbursement of costs will be made on either:

- (i) a per kilometre basis at the rates specified under Clause 4 of the Local Government (State) Award, or
- (ii) based on the presentation of a fuel docket/receipt.

- (d) Where travel is by air, Council will pay the cost of an economy class ticket.

- (e) Costs of vehicle hire, taxi fares and/or public transport which are reasonably incurred while attending conferences will be reimbursed by the Council.

- (f) Council will reimburse the cost of parking fees (upon the provision of an appropriate receipt) and the cost of any road tolls paid while on Council business.

In regard to “functions of Civic Office”, the following guide is provided:

Travel expenses relate to travel that is on Council business (this can be within NSW or interstate, where approved), including:

- to and from Council meetings;
- to and from Committee meetings, Working Parties etc of which the Councillor is a member;
- to and from meetings of external bodies to which the Councillor is an approved delegate;
- inspections within the area of the Council where such inspections have been arranged by a resolution of Council, or by Mayoral approval;

- to and from the periodical conferences, training courses and seminars of Local Government related organisations at which attendance has been approved by a resolution of Council or by Mayoral approval;
- to and from public meetings where such meetings have been arranged by a resolution of Council or by Mayoral approval.

NB: For the purposes of this Policy, travel within the ACT is regarded as travel within NSW.

Payment is subject to:

- the travel being undertaken expediently and by the shortest practicable route;
- claims must be made within three (3) months of incurring the expense;
- wherever possible and appropriate, a Council vehicle will be made available for use by a Councillor travelling outside the Bathurst Regional Council boundary on Council approved business.

N.B. The driver of the vehicle (whether a Council vehicle or private vehicle) will be personally responsible for all traffic or parking fines incurred while travelling on Council business. Under no circumstances will Council reimburse costs associated with traffic or parking infringement fines.

A copy of the "Claim for Reimbursement of Expenses" form is at Appendix A.

### **15.1 Payment of expenses for spouses, partners and accompanying persons**

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.

Council will also pay for any reasonable expenses incurred for a spouse, partner or accompanying person of the Mayor, or of a Councillor when they are representing the Mayor, when they are called upon to attend an official function of Council or, carry out an official ceremonial duty while accompanying the Mayor (or the Mayor's representative) outside the Council's area, but within the State of New South Wales. Reasonable expenses would include the cost of the ticket and meal etc.

In all other instances any costs incurred as a result of the attendance by a spouse, partner or accompanying person shall be met by the respective Councillor.

### **15.2 Payment in Advance:**

The Council will normally pay all costs associated with attendance by a Councillor on official Council business at a conference, seminar or function in advance. Where this is not appropriate or possible:

- a cash allowance or cheque equivalent thereto will be paid to the attendee in advance;
- An allowance for estimated "out-of-pocket" expenses may be paid to an attendee in advance upon request.

Payment via either of these methods will require the provision of a reconciliation statement, verification of expenses and the refund of any unexpended amount being submitted within ten (10) days of the close of the conference, seminar or function.

N.B. Councillors are provided with a credit card to minimise the requirement for payments in advance.

### **15.3 Childcare**

Council will reimburse Councillors for the cost of child care services incurred while on authorised Council business. The amount of reimbursement will be the actual cost incurred, with a maximum of \$25 per hour applying.

### **15.4 Dependant Care Related Expenses**

Council will reimburse Councillors for the reasonable cost of child/dependant care services (including care of elderly, disabled and/or sick immediate family members of Councillors) incurred while attending Council meetings, Committee meetings, workshops, briefing sessions and other meetings relating to Council's operations.

Councillors will be reimbursed for expenses associated with child/dependent care paid to providers other than immediate family, spouse or partner up to 1 hour before and after such meetings (based on advertised commencement time) subject to the prescribed form being completed and/or the production of appropriate documentation/receipts.

### **15.5 Councillor Care Related Expenses**

Council will give consideration to the payment of other related expenses associated with the special requirements of Councillors such as disability and access needs, including reasonable transportation provisions for those unable or unwilling to drive a vehicle, to allow them to perform their normal civic duties and responsibilities. Costs could include accommodation, meals and travel expenses for carers, accompanying a Councillor where required.

## **16. CORPORATE CREDIT CARD**

Councillors will, upon request, be given a Corporate Credit Card with a limit of \$1,000.

## **17. PROVISION OF COUNCIL UNIFORM**

Councillors are to be provided with a Council uniform. The initial purchase will be subsidised to a maximum of \$800.00 and thereafter an annual allowance for maintenance of a maximum \$200.00 per annum.

A councillor who is re-elected for a new term of office shall, during the first year of that term, be entitled to an allowance of up to a maximum of \$400 and thereafter the annual maintenance amount will apply.

Where Councillors are required to wear personal protective equipment (PPE), this will be provided up to a maximum of \$500 in any one term of Council.

## 18. CODE OF CONDUCT

Councillors should be aware that where actions are taken in Breach of the Code of Conduct, the failure to comply with the Code of Conduct may be evidence of a lack of good faith which may lead to a denial of payment under the Policy.

Further, Chapter 13, Part 5 of the Local Government Act allows the Office of Local Government to surcharge Councillors to recover any deficiency or loss to Council arising from actions involving misconduct. Councillors should be aware that where actions are taken in breach of the Code of Conduct, the failure to comply with the Code of Conduct may be evidence of misconduct which may lead to personal liability pursuant to the surcharge provision of the Local Government Act in connection with such actions.

## 19. CONFERENCES

In this part **Conference** means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions, events, etc. held within Australia, related to the industry of local government.

### 19.1 Who May Attend Conferences

Councillors may be nominated to attend conferences by:

- the Council, by resolution duly taken;
- the Mayor, acting within his/her delegated authority.

In addition the Mayor may nominate a substitute Councillor in his or her absence to attend functions within and outside the Council area on those occasions where the Mayor is unable to be in attendance.

### 19.2 What Conferences May be Attended

The conferences to which this policy applies shall generally be confined to:-

- Local Government NSW (LGNSW) and Australian Local Government Association(ALGA) Conferences.
- Special "one-off" conferences called or sponsored by the LGNSW and/or ALGA on important issues.
- Annual conferences of the major Professions in Local Government.
- Australian Sister Cities Conferences.
- Regional Organisation of Councils Conferences.
- Conferences, which further training and development efforts of the Council and of Councillors, or which relate to or impact upon the Council's functions.
- Any Meetings or Conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be, a delegate or member of the Council or the LGNSW.

Other conferences that may be attended would include those listed in the report provided to Council (from time to time) adopting the delegates/duty delegates.

### 19.3 Registration

The Council will pay all normal registration costs which are charged by organisers, including the costs of related official luncheons, dinners and tours which are relevant to the interests of the Council or assist Councillors to discharge the functions of their civic office.

#### **19.4 Expenses Incurred**

Payment or reimbursement of expenses incurred or to be incurred shall be subject to the requirements that:

- (a) travel expenses relate to travel that is on Council business;
- (b) the travel being undertaken with all due expedition, and by the shortest practicable route;
- (c) only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses;
- (d) out-of-pocket expenses for which amounts are claimed relate only to the verified costs of refreshments, meals, travel, registration fees, accommodation, stationery and the like;
- (e) any time occupied or travel incurred in other than Council business is not included in the calculation of expenses to be paid; and
- (f) the claim is made not later than three (3) months after the expenses were incurred, and upon copies of all relevant dockets, receipts and the like being attached to a written claim for payment/reimbursement.

#### **19.5 Categories of Payment or Reimbursement**

The categories of payment or reimbursement are as follows:

**(a) Travel**

See Clause 15 of this policy

**(b) Accommodation**

Reasonable accommodation costs (including meals), including the night before and/or after the conference where this is necessary, will be met by the Council.

**(c) Out-of-Pocket Expenses**

Reasonable out-of-pocket or incidental expenses will be reimbursed for costs associated with attending the conference, including entertainment, but excluding expenses of a normal private nature. Incidental expenses are taken to include items such as:

- (i) hotel/motel charges other than accommodation;
- (ii) telephone, facsimile and wi-fi costs;
- (iii) refreshments/meals not included in the Registration fee;
- (iv) any optional activity in a Conference program;
- (v) taxi fares;
- (vi) parking fees.

#### **19.6 Payment of Conference expenses**

Councillors, from time to time, may find it necessary to pay day-to-day expenses out of their own pocket. Councillors must then submit a claim (on the claim form attached to this policy)

for reimbursement of those expenses in accordance with this policy. Payment of incidental expenses will be limited to a maximum of \$100 per day.

The General Manager reserves the right to decline the reimbursement of any expenses he/she considers to be inappropriate or unreasonable and refer them for further consideration in accordance with the dispute procedures listed in this policy.

### **19.7 Spouse/Partner**

Where the attendee is accompanied by his or her spouse/partner the attendee will pay for any cost supplement involved in the accommodation. All costs for the spouse/partner (including travel and meals) are to be borne by the attendee.

Council will pay for the attendance by a spouse or partner of an attendee at the Local Government NSW Conference. Payment of expenses in these instances will be limited to the cost of registration at the conference and the cost of the official conference dinner.

### **19.8 Reimbursement of Expenses**

All claims for reimbursement of actual expenses incurred by a Councillor in the course of their official duties are to be made under the following conditions:-

- provision of appropriate tax invoices, receipts;
- submission of claim on the Council claim form provided at Annexure A;
- all claims being submitted within 3 months of the expenditure being incurred (except as otherwise specified in this policy);
- completion of a statutory declaration.

## **20. OVERSEAS TRAVEL**

Council will pay the same expenses as detailed above (for conferences) for Councillors travelling overseas on Council business provided Council resolves that such travel be undertaken. Any proposal for overseas travel must be considered at an Open Council Meeting through a report from the General Manager or other appropriate staff member.

Reports are to indicate:

- Who is to take part in the travel;
- The objectives for undertaking the trip, including an explanation of the benefits that will accrue to the community/Council from taking the trip;
- The duration of the trip and general details of travel arrangements;
- The approximate cost of the trip, including accommodation and other expenses payable.

If the trip is to be sponsored by private enterprise, ICAC guidelines and reporting structures shall be followed.

For overseas travel, a daily meal and an incidental expenses allowance will be paid to each authorised attendee in accordance with the appropriate Australian Taxation Office Determination, provided that such expenses are subject to a period of stay not exceeding the period for the conference or authorised business plus one day each way for travelling. Any such payment will be considered as a Payment in Advance and dealt with in accordance with the requirements of clause 15.2 Payment in Advance of this policy.

Where possible proposals for overseas travel by Councillors and staff on Council business should be included in the annual management plan to ensure community awareness.

## **21. DISPUTE RESOLUTION - PAYMENT OF EXPENSE CLAIMS**

Approval for expenses claimed as a result of attendance at a conference, seminar or function for which there is no formal Council resolution to attend will normally be made jointly by the General Manager and the Mayor (or if the claim is made by the Mayor, the General Manager and the Deputy Mayor or another Councillor). In the event of a dispute as to the payment of expenses claimed by a Councillor the General Manager will prepare a report for consideration at the ordinary monthly Council meeting and the report will be provided as part of the business paper for the meeting. The Council's decision will be final.



Appendix A

Civic Centre  
158 Russell Street  
BATHURST NSW 2795

Telephone 02 6333 6111  
Facsimile 02 6331 7211  
council@bathurst.nsw.gov.au  
www.bathurst.nsw.gov.au  
www.bathurstregion.com.au

Correspondence to:  
Private Mail Bag 17  
BATHURST NSW 2795

**MEMBER FOR COUNCIL CLAIM FOR REIMBURSEMENT OF EXPENSES**

**NAME OF CLAIMANT:** .....

**ADDRESS:** .....

**In accordance with the provisions of Clause 252 of the Local Government Act, 1993, I hereby claim the amount set out hereunder for expenses for conveyance by private car and subsistence in traveling:**

**MOTOR VEHICLE USAGE CLAIM:**

DATE	Meeting / Purpose / Location	KM Travelled	Vehicle Engine Capacity	Amount \$
<b>TOTAL</b>				<b>\$</b>

**EXPENSES INCURRED:**

DATE	Meeting / Purpose / Location	Amount \$
<b>TOTAL</b>		<b>\$</b>

Signature: \_\_\_\_\_ Date: / /

**Please note, these expenses claimed will be paid directly into your nominated bank account.**

**PLEASE ATTACH ALL TAX INVOICES FOR REIMBURSEMENT**

**These expenses have been verified by me and reimbursement is authorised.**

Signature: \_\_\_\_\_ **GENERAL MANAGER** Date: / /

<b>OFFICE USE ONLY</b>		<b>Creditor No:</b> _____
Motor Vehicle Usage Claim	\$ .	<b>03020.0330.0619</b>
Expenses	\$ .	_____
<b>TOTAL</b>	<b>\$</b> _____	

*The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.*

### 3.8. H

<b>POLICY:</b>	Hardship Rate Relief
<b>DATE ADOPTED:</b>	Director Corporate Services and Finance Report #8.2.8 Ordinary Council Meeting 15 March 2023 Resolution No. ORD2023-56
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services and Finance Report #8.2.8 Ordinary Council Meeting 15 March 2023 Resolution No. ORD2023-56
<b>FILE REFERENCE:</b>	11.00006
<b>OBJECTIVE:</b>	This policy is intended to ensure that Council offer fair, equitable, consistent and dignified support to ratepayers suffering hardship, while treating all members of the community with respect and understanding.

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This policy is intended to provide rate relief to ratepayers who are able to provide evidence of genuine financial hardship.

This policy applies to:

1. Outstanding rates and service charges as at the date of adoption of the policy; and
2. Rates and service charges levied for the current and future financial years.

Council recognises there are cases of genuine financial hardship requiring respect and compassion in special circumstances. This Policy establishes guidelines for assessment of a hardship application applying the principles of fairness, integrity, confidentiality and compliance within statutory requirements. It applies to alternate or flexible payment arrangements for up to 12 months or writing off rates, fees, annual charges, and interest accrued on such debts.

In cases of genuine hardship each case will be referred to Council for consideration in accordance with Council's adopted policy.

An application for hardship must be received in writing on the approved Hardship Rate Relief Application Form. Council may also request the ratepayer attend an interview to assist Council in the understanding of the issues causing hardship.

The application for hardship must be accompanied with supporting documentation which may include but is not limited to:

- Reasons why the person was unable to pay the rates and charges when they became due and payable
  - Copy of recent bank statements for all accounts
-

- Details of income and expenditure
- Letter from a recognised financial counsellor or financial planner confirming financial hardship

With respect to Section 601 of the Local Government Act, Council will not consider hardship applications under this provision, as valuations are independently determined by the NSW Valuer General. Council will encourage aggrieved ratepayers to make an appropriate application under the appeal provisions of the NSW Valuation of Land Act 1916.

Council's Hardship Policy will be used in conjunction with Council's adopted Recovery of Rates and Charges Policy.

Support services may be available for financial advice to help manage debts:

[www.moneysmart.gov.au/managing-your-money/managing-debts](http://www.moneysmart.gov.au/managing-your-money/managing-debts)

Financial Advice, including financial counsellor search function

[www.legalaid.nsw.gov.au/get-legal-help/find-a-service](http://www.legalaid.nsw.gov.au/get-legal-help/find-a-service)

Legal Aid service (Legal Advisers) Community Legal Centres in different local government areas:

[www.clcnsw.org.au/find\\_legal\\_help](http://www.clcnsw.org.au/find_legal_help)

In assessing an application for Hardship Rate Relief, Council must give due consideration to the relevant legislative provisions of the Local Government Act, 1993.

### 3.9. I

<b>POLICY:</b>	INSURANCE - PUBLIC LIABILITY – EX-GRATIA PAYMENTS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #9.3.6 Ordinary Council Meeting 21 September 2022 Resolution No. ORD2022-331  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance’s Report #5 Council 19 October 2005 Minute Book No. 9677
<b>FILE REFERENCE:</b>	03.00006
<b>OBJECTIVE</b>	To establish a sound position for Council when dealing with public Liability claims that have been denied by Council.

It is important the Council’s position when dealing with Public Liability Claims that have been denied by the Insurer is established. The reason for the denial by the Insurer is based on the fact that no legal liability is attributed to Council. This decision is based on the law of negligence.

In some circumstances Council may face a situation where a moral obligation may exist, and it may be considered expedient to meet certain claims. However, Council must bear in mind that the insurer will in all likelihood offer no protection as soon as liability is admitted by Council. Additionally, any ex-gratia payment by Council will weaken any subsequent defence that may arise in the future, and the responsibility will then rest with Council.

At the same time, some simple claims may arise, where there is no likelihood of repercussions and the cost of the claim may be less than the cost of staff time to investigate the claim. In such cases it is proposed:

1. That Council take no action on claims for personal injury or those that may lead to a subsequent claim for personal injury, that have been refused by the Insurer.
2. That in the case of claims for property damage up to \$2,000 which are denied by the Insurer. If, in the opinion of the General Manager the claim has no possibility of any future liability and in addition a moral liability exists, or it is considered expedient to resolve, an ex-gratia payment on an without admission of liability and without prejudice basis be made upon the signing of a release.
3. That Council stand by the decision of the Insurer in respect to any claims for property damage in excess of \$2,000.

### Special Considerations

1. In order that Council fully protects itself it should stand by the decision of the Insurer. As previously indicated, failure to take this action, may result in Council being held liable for any award that may be given if a claim is pursued through the courts, without any protection from the Insurer.
2. If Council agreed to make available an ex-gratia payment for property damage on a without admission of liability and prejudice basis, following denial by the Insurer, it should be clear that there should be no possibility of any future liability arising.

Before any such payment is made, the claimant should be requested to investigate other forms of recovery, (i.e. through personal insurance). In these circumstances, the private insurer may settle the claim, and the commercial decision is then made whether to pursue the claim against Council. If the claimant remains out of pocket - i.e. for the excess, they may seek recovery from Council.

In either of the above circumstances, the payment should be made upon the signing of a release, and the limit of such claims should be \$2,000, which are to be approved by the General Manager.

3. In the case of claims in excess of \$2,000 Council should stand by the decision of the Insurer.

<b>POLICY:</b>	INSURANCE - PUBLIC LIABILITY INSURANCE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #9.3.6 Council 21 September 2022 Resolution Number. ORD2022-331
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No.9416 (former BCC Policy)
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	11.00039/031, 03.00006
<b>OBJECTIVE:</b>	To ensure the protection of Council's assets through appropriate public liability coverage

### **Policy**

Bathurst Regional Council requires all contractors, subcontractors, event promoters (excluding events requiring full Mount Panorama circuit closure for speed events), leaseholders, stallholders, hirers (in the case of a meeting room/space, event or gallery space in a Council building), artists participating in an artist-in-residence program or artists present at the time of an art exhibition are to have Public Liability Insurance with a minimum coverage of \$20 Million. Exceptions to requiring \$20 Million Public Liability Insurance are outlined below.

Bathurst Regional Council should be noted as an interested party on all Public Liability Insurance Policies held by third parties where possible. If an insurance Policy expires, or Insurer changes during the term of engagement, Council must receive a copy of the updated Certificate of Currency.

Where Council is undertaking a contract works policy i.e., where a contractor is undertaking work on Council's behalf rather than as a third party, request should be made that Council appear as a co-insured on the contractor's liability policy, to allow Council full access to the policy if required.

Confirmation of Public Liability Insurance Policy in the form of a Certificate of Currency, must be provided to Council prior to the commencement of any work, use, service or activity.

### **Minor works**

Where the work being completed by a contractor or subcontractor is less than \$20,000, Council will seek advice from its insurance provider before accepting a lower Public Liability amount.



**Use of Mt Panorama Racing Circuit**

Bathurst Regional Council requires all event promoters (for events requiring full Mount Panorama circuit closure for speed events) to have Public Liability Insurance with a minimum coverage of \$30 Million or other amount specified by the Office of Sport Permit.

**Children's Services (including Family Day Care Scheme)**

Clause 29 of the *Education and Care Services National Regulations 2011* requires a minimum of \$10 Million Public Liability Insurance to be held by each Approved Provider of a centre based childcare service, or a Family Day Care Scheme.

Clause 30 of the *Education and Care Services National Regulations 2011* requires each family day care educator to hold Public Liability Insurance with a minimum value of \$10 Million.

### 3.10. L

<b>POLICY:</b>	LAND - SALES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report 8.2.6 Council 16 June 2021 Resolution No ORD2021-193 Council 18 August 2021 Resolution No ORD2021-294 Council 22 September 2021 Resolution No ORD2021-312  Director Corporate Services & Finance's Report #5 Council 18 May 2016 Minute Book No. 12260
<b>ORIGINAL ADOPTION:</b>	Director Business & Economic Development's Report #1 Policy 1 March 2006 Council 15 March 2006 Minute Book No. 9799
<b>FILE REFERENCE:</b>	20.00009
<b>OBJECTIVE</b>	To establish a procedure for all land sales

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## 1. POLICY INTRODUCTION

- 1.1 The *Local Government Act, 1993* requires councils to prepare and adopt policies on contracts and tenders, including policies on the sale or disposal of land and other assets in addition to those matters addressed in the Purchasing Policy.

## 2. POLICY OBJECTIVES

- 2.1 The objectives of this policy are to ensure Bathurst Regional Council's processes for the sale and disposal of land are fair and transparent.

## 3. POLICY STATEMENTS

- 3.1 This Policy includes land as a physical entity including buildings, structures or improvements to land.
- 3.2 Land also includes a legal estate or interest such as a leasehold estate. This Policy does not cover easements or rights of way.
- 3.3 Sale and disposal of land will be consistent with Council's economic, social and/or environmental objectives.
- 3.4 When considering options for the sale and disposal of land, Council will look for opportunities to advance the objectives of the Council's Management Plan.

- 3.6 The process for the sale and disposal of land will be fair and transparent to ensure Council obtains the best outcomes and price.
- 3.7 Commercial confidentiality will apply to negotiations for sale and disposal of land unless Council decides otherwise.

#### 4. MAJOR LEGISLATIVE AND CORPORATE REQUIREMENTS

- 4.1 This Policy complies with the requirements of the *Local Government Act 1993*.
- 4.2 Other major legislative requirements that may be relevant include the following:
- Property, Stock and Business Agents Act 2002
  - *Real Property Act 1900*
  - *Conveyancing Act 1919*
  - *Community Land Development Act 1989*
  - *Strata Schemes (Freehold Development) Act 1973*
  - *Strata Schemes (Leasehold Development) Act 1986*
  - *Roads Act 1993*
- 4.3 This Policy is to be implemented in conjunction with other relevant Council policies and strategies including the following:
- Bathurst Regional Council Delivery Plan and Annual Operating Plan
  - Purchasing Manual
  - Community Engagement Strategy

#### 5. LAND SALE PROCESS (Residential / Commercial / Industrial)

- 5.1 Report prepared for Council to approve sale, pricing and sale process for any new release of land.
- 5.2 Advertise sale and release method minimum two weeks prior to land release.
- 5.3 Land release method:

Ballot Release being General Release “A” then, General Release “B”

##### 5.3.1 Ballot Release “A”

- Register for the ballot using Ballot application form and incorporating a Statutory Declaration form to state the only on (1) application per person will be filled out regardless of nominated entity.
- Thereafter applicant cannot apply for a second ballot application as they are now ‘excluded’ from being involved in a second application in any way, shape or form.
- Registration would open 8.30am on (date specified).
- Registration would close at 4.45pm on (date specified)
- Ballot drawn at Council Chamber, civic Centre, 158 Russell Street, Bathurst, 10am (date to be specified) and within 7 days of ballot closing.
- Partnerships, companies and trusts must supply their CAN or ABN to validate their ballot.
- Transfer of land will be in the name/s registered on the ballot application form
- The ballot applicant/s will have twenty-one (21) days from receipt of Sale Contract issued to their Solicitor/Conveyancer to finalise an exchange. Failure

to comply will result in the Sale Contract being cancelled and the property being made available to other interested purchasers.

- The ballot applicant or their representative (Proxy) authorised in writing must be present at the ballot draw to select a lot in order of the draw. Failure to attend the ballot or acknowledge the drawn application number will result in that application number being invalid and another application number being drawn.

### 5.3.2 General Release "B"

8.30am – next working day after ballot (date to be specified) Council will offer any remaining lots under normal Market Conditions on a first come first serve basis.

### 5.3.3 Hand ins or non-Exchanged Lot's

Any lots handed back into Council after Ballot process or any lots failed to exchange during the twenty-one (21) day sale contract period. Will be 'held' and offered to the public via Council's website at a time of Council's choosing.

## **6. SPECIAL CONDITIONS**

Offer builder's terms with up to twelve (12) months delayed settlement, such terms not available until one (1) month after the ballot draw date. These terms also require lodgment of a Development Application within three (3) months of exchange of contract otherwise sale will be cancelled, and deposit refunded less Council costs. Council requires a copy of the Contract's valid Builders Licence and Public Liability Insurance Policy as part of sale of contract.

Builders terms are available to licensed builders only and are not transferable to any third party.

**POLICY:** LAND - TITLES – COUNCIL OWNED LAND

**DATE ADOPTED:** Director Corporate Services & Finance’s Report #1  
Policy 5 December 2012  
Council 6 February 2013  
Minute Book No 11477

**ORIGINAL ADOPTION:** Director Corporate Services Report #1  
Policy 1 December 2004, Council 8 December 2004  
Minute Book No. 9416  
(former BCC Policy)

**FILE REFERENCE:** 18.00062

**OBJECTIVE:** To transfer title of all Council owned land to the Torrens Title

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That all lands owned by Council under Old Systems Title be systematically converted to Torrens Title.

<b>POLICY:</b>	LOCAL ETHNIC AFFAIRS PRIORITIES STATEMENT (LEAPS)
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Cultural & Community Services Report #1 Policy 5 December 2007, Council 6 February 2008 Minute Book No. 10338
<b>FILE REFERENCE:</b>	09.00032
<b>OBJECTIVE:</b>	To outline the benefits of a culturally diverse community; a leadership role for Council in promoting and supporting cultural diversity in the Bathurst region; and ways for Council to facilitate community involvement in cultural diversity.

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## 1 PRINCIPLES OF MULTICULTURALISM

The *Principles of Multiculturalism* are defined by the *Community Relations Commission and Principles of Multiculturalism Act 2000*. The four principles detailed in this legislation are:

### *Principle 1: Participation*

"All individuals in NSW should have the greatest possible opportunity to contribute to, and participate in, all levels of public life in which they may legally participate".

### *Principle 2 : Respecting cultural diversity*

"All individuals and public institutions should respect and make provision for the culture, language and religion of others within an Australian legal and institutional framework where English is the common language".

### *Principle 3 : Access and Equity*

"All individuals should have the greatest possible opportunity to make use of and participate in relevant activities and programs provided or administered by the Government of NSW".

### *Principle 4 : Utilising diverse cultural resources*

"All institutions of New South Wales should recognise the linguistic and cultural assets in the population of New South Wales as a valuable resource and promote this resource to maximise the development of the State."

## 2 LEGISLATION & OTHER GOVERNMENT POLICY

In 1983, the Community Relations Commission introduced the EAPS programme. An Ethnic Affairs Priorities Statement (EAPS) is a planning document, which shows how an individual

government agency will address the needs of a culturally diverse society, according to its charter.

The White Paper *Cultural Harmony The Next Decade 2002 - 2012* defines EAPS as “a measure of agency performance where the needs of culturally diverse clients are fully integrated into core business, which in turn results in quality service delivery within the framework of the principles of multiculturalism and social justice obligations”.

For example, an EAPS usually shows how the agency will:

- deliver services, which are appropriate to a culturally diverse client group, as part of their core business;
- put in place flexible and inclusive consultation processes that are integrated into agency planning;
- provide training for staff on cultural diversity issues;
- provide language services and information in ways that will reach all clients.

The CRC monitors and assesses the performance of government agencies under the EAPS program. However, in accordance with amendments to the *Community Relations Commission and Principles of Multiculturalism Act 2000*, the Commission is also challenging agencies to do more, and to develop EAPS ‘good practice’, as appropriate to each of their agencies.

In 1995 the NSW State Government made a commitment to legislate for access and equity within local government. A Reform Task Force with a sub-committee on Social Planning, was established by the Minister for Local Government, the Honorable Ernie Page. The brief of this Task Force was to develop legislative and resource material instructing all councils to carry out a detailed social plan integrating issues relating to residents in specified target groups including those from a non-English speaking background. (Thompson *et al*: 1998).

This new requirement was given credibility as it was legislated in the Local Government (General) Amendment (Community and Social Plans) Regulation 1998. These amendments to the NSW *Local Government Act 1993* mean a Council is required to: “exercise its functions in a manner that is consistent with and actively promotes the principles of cultural diversity”, since 2000 referred to as the principles of multiculturalism.

Section 428, 2(j) of the *Local Government Act, 1993*, also requires local councils to provide in annual reports, details of programs undertaken during the previous financial year that helped promote services and access to services for people with diverse cultural and linguistic backgrounds.

### 3 BATHURST REGION DEMOGRAPHICS ON CULTURAL DIVERSITY

#### The Culturally diverse population in Bathurst

Population	BCC	Proportion	ESC	Proportion	NSW
Overseas born	2309	8%	455	9%	23%
Birthplace not stated	1391	5%	280	5%	6%



Overseas born – English speaking countries	1230	4%	304	6%	7%
Overseas born – Non English speaking countries	1079	4%	151	3%	16%
Overseas born arrived since 1996	331	1%	24	0.5%	4%
Overseas born arrived since 1996 from a non English speaking country	206	0.7%	Nil	nil	3%

- In 2003 the former BCC resolved that the City of Bathurst become a Refugee Welcome Zone. In taking this step Council recognised its past history with migrants through the previous Bathurst Migrant Centre. Councils commitment was to welcome refugees into the Bathurst community, uphold the human rights of refugees, understand their experiences and acknowledge that refugees can and do balance our cultural and religious diversities. Bathurst Regional Council joins forty four other local government Councils around Australia who have signed this declaration.
- There are four local multicultural groups and a Migrant Support worker in Bathurst.
- The NSW Chief Health Officer reported that between January 2002 and December 2003 half of the 7033 refugees originated from just two countries Iraq (29.2%) and Sudan (19.6%). The resettled refugee population is young with 36% of arrivals in this period being under the age of 16 years, very few were older than 65 years. The majority of arrivals settle in greater western Sydney a smaller but significant numbers are being dispersed to regional and rural locations, a trend which is increasing.

#### 4 AIMS & OBJECTIVES OF A POLICY SUPPORTING CULTURAL DIVERSITY

The ultimate goal of a policy supporting cultural diversity is to make life better for the people living within the Bathurst region It is underpinned by a belief that positive change can happen and that desired results can be achieved. A lot of policy is general and it gives some idea about what is to be done as a general rule. It adds consistency in decisions, in behaviour and in the use of regulatory powers.

Good policy development gives citizens a chance to contribute to Council decisions about policies which affect their lives. Good policy informs Council staff about what to do. It also helps Council customers to know and understand what to expect. Written policy typically describes Council's position on a particular issue and related services and activities. It explains why Council has taken this position, how it is expected to happen and what the effects will or might be.

Few policies are wholly original or break entirely new ground. Most are connected in complex ways to other policies and plans.. This can include other Council policies such as Equal Employment Opportunity (EEO) and plans such as Council's social and/or cultural plan.

The overarching objectives of this Policy to support cultural diversity in the Bathurst region and comprise the principles of multiculturalism specified by the Community Relations Commission:

*1.1 To review and update existing information on the current and future demographic makeup of the region and community needs identified within Council's current Social & Community Plan and Council's current Cultural Plan.*

*1.2 To support and promote the four principles of multiculturalism as set out in the Community Relations Commission and Principles of Multiculturalism Act 2000.*

*1.3 To ensure that community participation in the development (and ongoing review) of the policy is encouraged, valued and included in the policy and Social Plan and Cultural Plan Action strategy outcomes.*

*1.4 To ensure that Council staff participation in the review of the existing policy and the development of a new policy document is encouraged, valued and included in the policy and strategy outcomes.*

*1.5 To ensure that the review of the policy and strategy involves a "whole of Council and whole of community" approach.*

*1.6 To produce an outcomes focused policy and action strategy within Council's Social and Community Plan and policy for the five year period, 2006-2010 which includes "built-in" promotion, evaluation and review.*

*1.7 To ensure ongoing commitment to the implementation of the Cultural Diversity policy and action strategy through linking it to Council's annual management planning process and linking to other relevant agencies.*

## 5 METHODOLOGY FOR DEVELOPING A POLICY SUPPORTING CULTURAL DIVERSITY

Council must facilitate processes which are aimed to be as inclusive and outward looking as possible and embody the principles of open government and positive participation.

In October 2005, Council adopted a Charter for a Culturally Diverse Working Group Committee as a means for community representation. The Charter is included at *Attachment A*. The Culturally Diverse Working Group has guided Council on the development of this policy. A draft document was prepared by the Group to help facilitate community consultation.

Broader representation was obtained through circulation of the draft policy document to relevant community groups, organizations and agencies. A forum was hosted at Council to consult with individuals from the culturally diverse community and the wider community.

Consultations with Council were also held to promote the draft policy and seek input, as the success of multicultural strategy hinges on the commitment of Council and its staff to both the principles of multiculturalism and to specific and initiatives and programs which emerge to support the principles. The consultation and information gathering process will be guided by the Working Group.

## 6 DRAFT POLICY STATEMENT

Bathurst Regional Council is committed to its culturally diverse community by promoting community harmony to make the region a place where people from culturally diverse backgrounds would want to settle and by providing services that will meet the needs of its culturally diverse citizens.

Specifically Bathurst Regional Council has identified through the local culturally diverse community, the following key commitments:

Commitments researched from other policies and communities include the following – these could be used to stimulate discussion and identify the key areas of commitment to the local community:

- Developing and promoting a profile of the diverse cultures in the community to improve cross cultural understanding
- Communication between Council and community
- Appropriate information formats from Council to the cultural diverse community
- Opportunities to breakdown language barriers – for council staff and community members
- Cross cultural awareness training for Council staff and community organizations/businesses
- Access to facilities
- Equal employment opportunities – within Council and promoting EEO in the broader community - workplaces
- Harassment and racism
- Improving community harmony
- Showcasing cultures
- Promoting benefits of a culturally diverse community

The list could be endless. The Culturally Diverse Working Group and Council can consult with the local community to identify what is important to focus on in the Bathurst Region.

## 7 LINKS BETWEEN THE POLICY & ACTION PLANS

The Bathurst Regional Council Policy to Support Cultural Diversity is the broad policy direction. It identifies the key principles of multiculturalism and key areas of support that the community wish Council to focus on.

The Policy will be used to guide the development of strategies in the Council's Social & Community Plan, Cultural Plan and the action plan of the Culturally Diverse Working Group.

<b>POLICY:</b>	LOCAL GOVERNMENT ELECTIONS CARETAKER PERIOD POLICY
<b>DATE ADOPTED:</b>	DIRECTOR CORPORATE SERVICES AND FINANCE #9.3.6 ORDINARY MEETING 15 MAY 2024 RESOLUTION NO. ORD2024-123
<b>FILE REFERENCE:</b>	12.00010
<b>OBJECTIVE:</b>	To ensure the Council, community and staff are aware of what Council can and cannot do during the caretaker period prior to a Council election.

**Purpose:**

In the four weeks prior to the date of an ordinary election, Council enters a caretaker period. During this period, restrictions are placed on Council's functions. The purpose of this policy is to ensure:

1. Council, community, and staff are aware of what can and cannot be done during the caretaker period.
2. Council complies with the caretaker period provisions of the *Local Government (General) Regulation 2021 (Clause 393B)*.
3. Council continues to provide high standards of service to the community.
4. Council avoids making significant new policies or decisions that could unreasonably bind a future Council.
5. Public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election.

The caretaker period for the Local Government elections is contained in **Schedule 1** of this Policy.

**Policy**

Council is committed to complying with Clause 393B of Local Government (General) Regulation 2021 (the Regulation) which states:

1. *The following functions of a council must not be exercised by the council, or the general manager or any other delegate of the council, during a caretaker period:*
  - a. *Entering a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% (\$306,000) of the council's revenue from rates in the proceeding financial year (whichever is the larger),*
  - b. *Determining a controversial development application, except where:*
    - i. *A failure to make a determination would give rise to a deemed refusal under section 8.11(1) of the Environmental Planning and Assessment Act 1979, or*
    - ii. *Such a deemed refusal arose before the commencement of the caretaker period,*

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- c. *The appointment or reappointment of a person as the council's general manager (or removal of a person from that position), other than:
 
    - i. *An appointment of a person to act as general manager under section 336(1) of the Act, or*
    - ii. *A temporary appointment of a person as general manager under section 351(1) of the Act.**
2. *Despite subclause (1), such a function may be exercised in a particular case with the consent of the Minister.*

The following sections provide further details on the other restrictions that will apply during the caretaker period.

## 2.1 Decision Making

Council, or an officer acting under delegation, will not make the following decisions during the caretaker period:

1. Acquisition and sale of land,
2. Adoption or amendment of the Bathurst Regional Council Local Environmental Plan 2014, Development Control Plan 2014 or Section 7.11 Developer Contribution Plans,
3. Adoption or amendment of policies, strategies, master plans or frameworks,
4. Adoption or amendment of the Community Strategic Plan or Council's Delivery Plan,
5. Adoption of a revised budget,
6. Allocation of grants or awards to individuals or organisations,
7. Appointing representatives to Council committees,
8. Endorsing submissions to government or public bodies,
9. Authorisation of the entering into a contract or entrepreneurial agreements exceeding 1% (\$306,000) of Council's Revenue from Rates,
10. Hearing of submissions or deputations from the community,
11. Any other decision that the General Manager considers may affect voting at the election or is a decision that can be made outside of the caretaker period.

Decisions made by Council, or by an officer under delegation, **prior** to the caretaker period can be implemented during the caretaker period.

## 2.2 Council Meetings and Councillor Briefings

Ordinary Council Meetings will continue to be held during the caretaker period. The Council meeting agenda may contain items that may lead to discussions relating to election issues, Council will not consider the following during the caretaker period:

1. Petitions, joint letters and deputations
2. Notices of Motion
3. Mayoral Minutes

Nominated Candidates will not be permitted to speak during the public forum on any topic.

## 2.3 Council Resources

The Councillor Facilities and Expenses Policy still applies during the caretaker period. Council will continue to support Councillors in undertaking their normal civic duties and appropriate out-of-pocket expenses will be covered.

Council resources (including, but not limited to, offices and equipment, phones and tablets, logos, letterheads, stationary, information etc.) must not be used by Councillors and Officials for Electoral Matters and campaigns.

Councillors must ensure that operational requests (e.g. issues with roads, footpaths, trees, waste management and general amenity etc.) are made through the General Manager's Office.

No election campaigning material is to be distributed from or displayed in or on Council land (excluding road reserves), facilities, libraries, or community noticeboards.

Any Council facilities booked for the election campaign will be charged at the same rate to all hirers. Bathurst Regional Council will not cover the payment of these hire fees.

## **2.4 Access to Council Information**

Councillors will continue to receive information necessary to fulfil their existing roles as a Councillor during the caretaker period (e.g. information related to Council Meetings). Requests not relevant to their civic duties will be managed through the General Manager's Office.

Council staff must not offer comment to the public about any Councillors or candidates, except to provide contact details for current Councillors.

## **2.5 Community Consultation and Engagement**

Council will limit community consultation and engagement during the caretaker period to statutory requirements and topics that are likely or not likely to be the subject of an election campaign.

Technical Liaison Committees (e.g. Audit and Risk Management, Floodplain Risk Management, Local Traffic, Local Emergency Management) meetings and regular statutory planning consultations/engagement involving Council staff, Councillors and interested persons will be held during the caretaker period. Discussions at these planning meetings must not involve Electoral Matters or significant community consultation on major developments, strategy, or policy issues.

Public exhibition of Development Applications will continue in accordance with the adopted Community Participation Plan.

## **2.6 Events and meetings**

Council will not schedule public Council events outside of the existing program during the caretaker period.

Councillors can attend and accept invitations for externally organised events (e.g. business breakfasts, annual general meetings, launches, opening and exhibitions) held during the caretaker period. However, Council officers' support (e.g. attendance administration, briefing notes or speech preparation) will not be available and the event must not be used for the purpose of an election campaign.

## **2.7 Publications and Communications**

Council will limit publications and communications and ensure the material does not contain electoral matter other than information relating to the election process (e.g. where to vote etc). The following are examples of limited publications and communications:

1. Council Newsletters
2. Advertisements and notices

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3. Leaflets, brochures, stickers etc.
4. Mail outs to multiple addresses (except Community Consultation as identified in Section 2.6 above)

Any of the above will require the Executive Leadership team, Manager Corporate Communications and General Manager's approval.

Documents exempted from General Manager's approval are:

- a) Publications that were published prior to the commencement of the caretaker period.
- b) Publications that are required to be published in accordance with any Act or Regulation.

Council's website will function as normal during the caretaker period; however, Councillor profile pages will be limited to names, contact details and membership of committees.

Any references to the election on the website will be restricted to process only and links to the NSW Electoral Commission for polling places.

## 2.8 Media and Social Media

During the caretaker period, Council will, where possible, reduce media releases. The General Manager is required to approve all media releases, responses and public comments and will determine the appropriate spokesperson in relation to specific issues. The General Manager will be Council's spokesperson if the issue relates to electoral matters.

Councillors must not use their position as elected representatives to gain media attention specifically in support of their election campaign.

The Mayoral Column and other similar media publications and engagements will cease during the caretaker period.

Council managed social media sites must not be used for election campaigning. The public will be able to post comments on Council's social media sites, however, comments referencing election candidates, or the 2024 election will be removed. The General Manager will determine the spokesperson for Council's social media channels. Publishing of comments or new content on Council's social media sites will require the General Manager's approval.

## 3 Approval Requirements

The Manager Corporate Governance will assess all Council publications before they are presented to the General Manager for approval.

If the publication is approved, the following wording from the General Manager is to be used:

"I certify that the attached material is suitable for printing, publishing or distributing on behalf of Bathurst Regional Council in accordance with Council's Local Government Election Caretaker Period Policy".

Once a determination has been made by the General Manager, staff will be advised of the outcome of the request for certification process and a record of all certified publications will be kept via Council's document management system.

## 4 Definitions

**Caretaker period:** means the period of 4 weeks preceding the date of an ordinary election (clause 393B(3) of the regulation).

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**Controversial development application:** means a development application under the Environmental Planning and Assessment Act 1979 for which at least 25 persons have made submissions during community consultation (clause 393B(3) of the regulation).

**Electoral material:** means anything, including without limitation a how-to-vote card, poster or advertisement, containing Electoral Matter (whether in a tangible or an electronic form).

**Electoral Matter:** means:

- a) Any matter that is intended or calculated or likely to influence or is capable of influencing the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election, or
- b) The name of a candidate at any election, the name of the party of any such candidate, the name or address of the electoral and campaign office of any such candidate or party, the photograph of any such candidate, and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate.



**Schedule 1**

<b>Election</b>	<b>Caretaker Period</b>
14 September 2024	Commences midnight Friday 16 August 2024 and ends on Saturday 14 September 2024.

### **3.11. M**

<b>POLICY:</b>	MEDIA
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #5 Council 15 September 2021 Resolution No. ORD2021- 330 Council 20 October 2021 Resolution No ORD2021-349
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	04.00003
<b>OBJECTIVE:</b>	To develop and maintain an effective, professional level of communication with the media.

### **Roles and responsibilities**

#### The Mayor

- The Mayor plays an integral role in reporting back to ratepayers and residents, the decisions and considerations before Council. The Mayor is the main spokesperson on political issues but will delegate media duties in consultation with fellow Councillors who also have regular contact with the media on issues of specific interest.

#### General Manager/Acting General Manager

- Gives the final approval on all media comment/releases relating to general Council business and is the spokesperson, unless choosing to delegate, on the main areas of Council business and strategic issues.
- Is responsible for maintaining an open communication policy with the Media & Communications Officer to provide adequate planning and lead time for preparation of media strategies.

#### Department Heads/Acting Department Heads

- Will approve all media generated by their department unless delegated authority is given to other staff eg Library, Art Gallery.
- Are responsible for developing proactive media opportunities amongst staff.
- Are responsible for identifying potential issues that may develop within Council or in the wider community, in relation to Council business and should brief the Media & Communications Officer who in consultation, will assess and develop an appropriate media strategy.

#### Media & Communications Officer

- Is the first point of contact for all media inquiries at Council.
- Is available at all times to respond to media inquiries and assess critical media issues.
- Is responsible for handling all media inquiries and preparing a response in consultation with Council staff and Councillors, where appropriate.
- Shall seek the final approval of the General Manager, Director of Corporate Services or appropriate Department Head before releasing any comment to the media.

- Is responsible for generating proactive news items to media, identifying potential to promote Council's services and developing appropriate strategies.

#### Corporate Communications team members

- Will support the Media & Communications Officer with media release writing and media liaison when required.
- In preparing information for radio ads, on hold messages and other items, shall inform the Media & Communications Officer of all possible news items.

#### All staff

- Are responsible for alerting the Media & Communications Officer of any media inquiry to Council as soon as they are aware of media contact.

#### Approaching the media

- After consultation with the General Manager, Mayor or Department Head the Media & Communications Officer will generally initiate all contact with the media and talk to journalists about potential stories, photo opportunities and events involving Council unless an alternative strategy is developed.
- Council staff should advise the Media & Communications Officer of all potential media events, launches, press conferences etc...no later than two weeks prior to the event so an appropriate strategy can be developed.

#### Responding to a media inquiry

- All media inquiries that come via phone, email or fax to Council are to be directed to the Media & Communications Officer or in the absence of that position, to the Manager Corporate Communications or Digital Communications Officer.
- If the Corporate Communications staff are unavailable, details of the caller and the nature of the inquiry are to be forwarded to the Department Head with a copy of details to be sent to the Media & Communications Officer
- It is the responsibility of the Media & Communications Officer to provide appropriate media liaison, source the relevant spokesperson/informant and complete the inquiry.
- All comment on Council business or information will come from the Mayor, General Manager, Department Head or delegated staff.
- The Media & Communications Officer will be responsible for media liaison with the Mayor and Councillors where appropriate.
- A copy of all media releases issued by Council will be forwarded to all Councillors, Council staff and posted to the News Centre on YourSay Bathurst
- All Council staff are entitled to a personal opinion but must not express their personal views in a public forum or to any member of the media, on behalf of Bathurst Regional Council.

#### Writing a media release

- Staff from all departments should be encouraged to identify media opportunities and where appropriate draft media releases.
- Once a release is drafted or media concept approved by the General Manager or Department Head it should be sent to the Media & Communications Officer for release to the media.
- As long as they are able to meet the appropriate Council criteria for media liaison, an exception for Media & Communications Officer approval will be given for Council services such as the Library, Art Gallery, Visitor Information Centre, and child care facilities. In these cases, all media releases should be forwarded to Media & Communications Officer for information as they are released to the media.

### Confidentiality

- Council staff and elected representatives are bound by the Privacy Act, not to reveal the name or details of any member of the public who has dealings with Council to the media, unless the individual's permission is granted. The exception will be if the release of such information has already been made public through publication of Council's business papers.
- In accordance with Council's Code of Conduct, employees or Councillors shall not disclose otherwise than to the Council, a councillor or member of staff entitled to know, information concerning any matter relating to Council business.

### **Further information**

#### The Media

- The media are responsible for the reporting of accurate, honest and fair stories with a fair opportunity for reply.
- They must attribute information to appropriate sources.
- They must distinguish between fact and opinion.

**POLICY:** MEMBERSHIP OF SHIRES ASSOCIATION

**DATE ADOPTED:** Director Corporate Services & Finance's Report #1  
Policy 5 December 2012  
Council 6 February 2013  
Minute Book No.11477

**ORIGINAL ADOPTION:** Director Corporate Services Report #1  
Policy 1 December 2004, Council 8 December 2004  
Minute Book No. 9416  
(former BCC Policy)

**FILE REFERENCE:** 18.00105, 41.00089

**OBJECTIVE:** Notation of membership of Shires Association

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That Council become an associate member of the Shires Association.

<b>POLICY:</b>	MOBILE DEVICES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #3 Policy 1 May 2013 Council 15 May 2013 Minute Book No. 11534
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #1 Policy 1 July 2009 Council 15 July 2009 Minute Book No. 10717
<b>FILE REFERENCE:</b>	11.00015
<b>OBJECTIVE:</b>	To provide guidelines regarding the appropriate use of Council supplied mobile telephones.

## INTRODUCTION

The aim of this policy is to provide employees with guidelines regarding the appropriate use of their Council supplied mobile devices.

## DEFINITION

**Mobile Device** - for the purposes of this policy means any device that is reliant on a carrier Mobile Network for the purpose of transmission of voice and/or data traffic. Mobile Devices include but shall not be limited to: Mobile Phones, Data Modems, GPS devices, Asset Tracking devices, Security Access Modems and tablet Data devices.

**Personal Devices** – (also referred to in the industry as BYOD – Bring Your Own Device) means mobile devices belonging to an individual that are not supplied by Council.

The use of any features, functionality or carrier services not explicitly defined within this policy will be considered as prohibited under this policy.

## PURPOSE

To provide mobile telephones for use by its employees to assist staff in the performance of their duties, ensure that staff are accessible, facilitate timeliness of responses to Council's customers and to enhance communications.

To facilitate the effective management and administration of costs of business calls relating to the Council's mobile telephone resources.

To encourage the standard for acceptable use of mobile telephone resources in the conduct of its business to safeguard employees, protect Council assets and ensure compliance with appropriate legislation.

## **ELIGIBILITY**

An employee will be eligible to have a mobile telephone if it is deemed necessary to their position, for example, if the employee's duties required them to spend time out of the office and/or to be contactable outside the normal hours of work. All mobile phones are provided at the discretion of the General Manager.

The purchase of iPhones must be approved by the responsible Director **prior to purchase**.

The use of Personal Devices (BYOD) for council business is not permitted under this Policy. Where such access is required, council-supplied equipment is to be used.

N.B. This policy does not apply to the General Manager and the Directors as mobile devices are covered individually in their employment contracts.

## **USE**

Where the mobile telephone is a requirement of the position, the intended use of Council mobile telephone shall be to facilitate communication between staff members and other staff or the external community. This is to allow employees the ability to better perform the duties assigned to them and to allow greater efficiency in administrative and service functions.

All Council's employees issued with mobile telephones must abide by the terms in the "Mobile Telephone Policy"

1. Usage – Council Business Use Only
  - Council mobile telephones are to be used for Council Business use only.
  - Council mobile telephones are for the exclusive use of the employee to whom the phone is assigned (except for some phones which are used specifically for on-call operations and should only be used by the on-call employee to whom the phone is currently assigned).
  - Council mobile telephones are not to be used for individual "business" or private matters related to income generating activities.

2. Private Use

From time to time a personal call may be made, while on Council business, however private usage should be kept to a minimum. If it is found that an employee is using his/her mobile telephone irresponsibly, the use of the mobile telephone will be restricted or removed.

You should be aware that Council receives fully itemised records for all mobile telephones. The Council recognises the employees' general rights of privacy, but Council reserves the right to monitor use of mobile telephones where it is reasonably justified



and/or there are legitimate reasons for doing so. Where the Council has concerns, this matter will be referred to the relevant Director.

Due to both the popularity of mobile devices and their small size, such devices will be fitted with both location tracking software and remote wipe/remote lock capability. The disabling of such features by staff may result in the removal of the user's access to such devices.

### 3. Hands Free Operation

The use of mobile telephones whilst driving is unlawful. If justified, a blue tooth facility or 'hands free' car kit may be installed in a council car. This must be authorised by the relevant Director and installation must be organised through the Council motor vehicle workshop

It is an offence (driving without due care) to use mobile telephones whilst operating a motor vehicle and the incursion of any penalties and fines will be solely at the employee's cost.

## USER AWARENESS

All users of mobile telephones will be required to sign the mobile telephone policy acceptance form and return it to the Director Corporate Services & Finance before receipt of the mobile telephone.

## RESPONSIBILITY OF USERS

All users must accept full responsibility for using their Council mobile telephone in an honest, ethical, safe and legal manner and with regard to the rights and sensitivities of other people. Use must be in accordance with Council policies and all relevant federal and state legislation.

Staff are required to

- take good care of the mobile telephone
- take all reasonable precautions to ensure that the device is not damaged, lost or stolen
- keep mobile telephones clean, and in a serviceable condition to the best of their ability, and
- report all irregularities in the operation of the mobile phone immediately to the Council motor vehicle workshop.

There are some standard procedures that the user should implement as part of their day-to-day operational use of the mobile device, specifically with regard to telephones:

- Activate the keypad lock to avoid accidental use of the device.
- Mobile telephones must not be left in open view in unlocked or unattended vehicles.
- Damaged phones should be returned to the Council motor vehicle workshop who will arrange for any repairs to be carried out.

## LOST OR STOLEN DEVICES

- Must be reported to the appropriate Director immediately and an outgoing service barring requested.
- Must be reported to the IT Section within three business hours of discovering the loss of the mobile device.

- Will be remotely locked and wiped clean of all data.

Depending on the circumstances in which the mobile telephone was lost or damaged, Council will be responsible for replacing the phone unless carelessness on the part of the employee can be shown as the cause of the loss or damage. In circumstances where it has been shown that the employee's carelessness contributed to the loss or damage of the phone then the employee may be required to contribute to the replacement cost.

## **TERMINATION OF EMPLOYMENT**

On termination of employment, the employee must return the mobile telephone to Council's Motor Vehicle Workshop. Any battery chargers or other accessories supplied by the Council for use with the mobile telephone must also be returned.

The mobile telephone is issued to an employee where it is deemed necessary to their job position. When an employee subsequently changes job position within Council, authorisation by the Director of Corporate Services and Finance must occur for the mobile telephone to remain with the employee. Approval will only be given in this circumstance where the use of the mobile telephone is deemed a necessary requirement of the employee's new job position. If approval is not given the mobile telephone is to be returned to Council's Motor Vehicle Workshop.

**MOBILE DEVICE POLICY ACCEPTANCE FORM**

I hereby confirm that I have received a copy of and read and understood the contents of the Mobile Telephone Policy.

I agree to abide by all conditions in the Mobile Device Policy and to comply with all procedures and requirements set out therein.

I have received the following mobile devices and peripheral items.

<b>Mobile Device</b>	
<b>Asset ID</b>	
<b>Make</b>	
<b>Model</b>	
<b>Serial No.</b>	

<b>Peripheral items:</b> e.g. power cables, charges, bags or cases	
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\_\_\_\_\_  
Name of Employee (Please Print)

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approved by Director

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

<b>POLICY:</b>	MOTOR VEHICLE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Corporate Services & Finance's Report #1 Policy 2 February 2011 Council 16 February 2011 Minute Book No.11065
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #6 Council 16 November 2005 Minute Book No. 9705
<b>FILE REFERENCE:</b>	11.00003
<b>OBJECTIVE</b>	To establish guidelines for the use of Council's vehicle fleet.

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## 1. STATEMENT OF INTENT

Bathurst Regional Council is committed to providing appropriate transport to enable employees to complete their duties. The Vehicle Policy provides the framework so that Council can maximise the effective use of its resources without compromising the efficient execution of employees' duties.

## 2. ELIGIBILITY

This Vehicle Policy applies to all Council employees who are authorised to use a Council Vehicle in the execution of their duties.

2.1 Employees are only authorised to use Council vehicles under the following circumstances:

- Must have an appropriate and current licence for the vehicle they are driving
- Where a vehicle is required to allow them to complete the responsibilities of their position
- Where the employee is entitled to the private use of a vehicle as part of their salary package (i.e. a condition of employment)
- Where the employee is entitled to the private use of a vehicle as part of the Council's vehicle lease program (i.e. a discretionary benefit).

Refer to Local Government (State) Award 2010 for method of determining whether the ability to lease a vehicle is being provided as a condition of employment or as a discretionary benefit.

## 2.2 Categories of employees:

### **Category A**

The General Manager and Senior Staff.

### **Category B**

Managers who currently have a Holden Berlina or equivalent vehicle.

### **Category C**

Managers (defined as Line Managers responsible for a section and reporting directly to a Director) who have a vehicle or staff members who currently have a Holden Acclaim or equivalent vehicle.

### **Category D**

Staff members whose position requires a vehicle and are eligible to apply for the private use of that vehicle and staff members who are provided a vehicle as part of their employment package.

### **Category E**

Staff members who currently have partial private use of the vehicle.

### **Category F**

Staff members whose position requires a vehicle but who are not entitled to any private use of the vehicle.

## 3. PRIVATE USE

- 3.1 Council will allow employees who are eligible to lease a vehicle under Council's Motor Vehicle Private Use Policy full or partial private use of their vehicle subject to the terms and conditions of that policy.
- 3.2 A lease fee for the use of the vehicle will be paid by way of a weekly salary deduction. The fee will be calculated in accordance with Council's Lease Back Agreement.

Employees in job share/part time positions are not eligible to lease a vehicle for private use. This may be varied in exceptional circumstances but each individual request would be treated on its merit and would only be allowed with the approval of the General Manager.

## 4. VEHICLES

### 4.1 Vehicle Allocation

- 4.1.1 **Category A (Senior Staff)** the level of vehicle allocated will be in accordance with the provisions within their contract of employment.

**Category B** positions are entitled to a Holden Berlina or a vehicle of equivalent or lesser economic profile. The vehicle must be available on Government Contract.

**Category C** positions are entitled to a Holden Acclaim or a vehicle of equivalent or lesser economic profile. The vehicle must be available on Government Contract.

**Category D** positions are entitled to a Holden Commodore or a vehicle of equivalent or lesser economic profile. The vehicle must be available on Government Contract.

**Category E** positions in this category have a vehicle that suits the specific requirements of the position.

**Category F** positions in this category are not entitled to any private use.

4.1.2 Eligible employees may also choose a vehicle which is lower in value than their entitlement subject to the approval of the General Manager.

4.1.3 All vehicles will be supplied with

- air-conditioning;
- power steering; (where available)
- ABS brakes; (where available)
- Driver's Airbag; (where available)
- Bonnet protector
- Head light protectors
- Automatic (where appropriate)
- Cruise control (where available and appropriate)

4.2 Infringement Notices

4.2.1 All infringement notices are the responsibility of the employee to whom the vehicle has been leased/allocated or the driver responsible for the vehicle at the time of the infringement. Failure to pay any infringement notice/s will be considered a breach of this policy. (See 13.1 - Breaches).

## 5. SURRENDER OF VEHICLE

5.1 In accordance with Council's policy, the vehicle will be traded in and replaced as and when required by the employer. The new vehicle will be one similar to that traded, unless Council's requirements for the vehicle specifically alter or due to altered working conditions of the Employee.

5.2 Vehicles will be replaced in accordance with Council's prevailing policy at the time.

## 6. AVAILABILITY FOR COUNCIL USE

Any council vehicle remains the property of the council and is to be made available for use by Council (including other Council employees) during working hours when the employee is not on leave. Council's requirements for use of the vehicle by

Employees for Council activities will have priority over any private use of the vehicle, during the time when the employee is rostered to work.

## **7. VEHICLE EXPENSES**

- 7.1 Council will provide a fully maintained car and is responsible for all vehicle expenses other than those outlined in Clauses 4.6, 4.7, 5 and 11 of the Motor Vehicle Lease Policy.
- 7.2 The Employee shall be provided with a Fuel Card for the purchase of petrol and oil only. In unforeseen emergency situations or occasions where the employee is unable to attend a service station which accepts the provided fuel card, if fuel is purchased by the employee, documentary evidence is required for reimbursement. Reimbursement will be by way of a cheque request.

## **8. COUNCIL DIRECTIONS AND RULES**

The Employee shall comply with the instructions and rules, including the maintenance of log books, for the general operation of the vehicle from time-to-time given by the General Manager or other Council Officers authorised to give instructions pertaining to the use of the vehicle by the Employee.

## **9. NOTIFICATION OF DEFECTS/DAMAGE**

The Employee shall promptly notify Council in writing of any defects or damage to the vehicle. A written memorandum to that effect shall be submitted to the Director of Engineering Services for the attention of the Plant Superintendent.

## **10. REPAIR AND MAINTENANCE**

The Employee responsible for a council vehicle shall keep the vehicle in good repair and condition by ensuring that the workshop conducts regular services in accordance with the manufacturer's logbook and any maintenance schedules laid down by Council's Plant Superintendent. The Employee shall comply with the guarantee requirements of the manufacturer of the vehicle.

## **11. INSURANCE**

- 11.1 The Council shall take out comprehensive insurance cover on the vehicle, covering private use of the vehicle by an employee.
- 11.2 If the Employee or any person using the vehicle with his/her permission shall breach any of the conditions of the insurance policy of Council, including consumption of alcohol beyond the prescribed limit, and Council's insurance company should fail and refuse to meet the claim for the accident, the Employee shall be liable to Council for
- reimbursement of the cost of repair of the vehicle (and any other vehicle for which Council would be liable for repair)

- and for any other damage suffered by Council as a result of the accident not recoverable from the insurance company by virtue of the breach of the condition of the insurance policy.

### 11.3 Should the vehicle be involved in an accident:

- The driver must not admit liability.
- The driver should stop and lend assistance to injured persons, if possible. Call for an Ambulance and Police, if necessary.
- The driver should, in accordance with the Motor Traffic Act, report any Accident to the Police within 24 hours. This can be done by either presenting at the police station or phoning the Police Assistance Line on 131 444.
- The driver should obtain all particulars. Record the names of all persons involved including that of the Police Officer, position of vehicles involved, names and addresses of individuals involved, witnesses and any action taken.
- The driver should report all accidents to Council's Human Resources Department who will then report the incident to the person within council responsible for organisation of claims and repairs.
- If a member of the public is injured/known to be injured, the driver should advise the General Manager.

## 12. ALLOCATION OF NEW VEHICLE

The Council may provide another vehicle, in place of the allocated vehicle, generally of similar size and type (unless the requirements of the position alter) and the Council shall be responsible for the transfer of accessories of the Employee at the cost of the Council. (Any such replacement vehicle shall be deemed to be the vehicle covered by any lease agreement.)

## 13. BREACHES

Any breaches of the provisions of this policy may lead to the employee (i) losing access to a vehicle, and/or (ii) disciplinary action.

## 14. POLICY VARIATIONS

- 14.1 This policy may be reviewed periodically and the use of any vehicle will be in accordance with the adopted policy in force at the time.
- 14.2 Council reserves the right to revoke the policy



<b>POLICY:</b>	MOTOR VEHICLE LEASE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No 11477
	Director Corporate Services & Finance's Report #1 Policy 2 February 2011 Council 16 February 2011 Minute Book No 11065
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #6 Council 16 November 2005 Minute Book No. 9705
<b>FILE REFERENCE:</b>	11.00003
<b>OBJECTIVE</b>	To establish guidelines to allow private use of Council vehicles by employees of Council.

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### 1. AIMS

This policy will set the conditions under which Council vehicles may be made available for private use by employees of council.

### 2. OBJECTIVES

The objectives of this Policy are:

- To establish guidelines for the use of council vehicles for private purposes
- To establish the responsibilities of all parties involved in the private use of council vehicles

### 3. ELIGIBILITY

This policy applies to eligible employees as defined below.

#### **Category A**

The General Manager and Senior Staff.

#### **Category B**

Managers who currently have a Holden Berlina or equivalent vehicle.

#### **Category C**

Managers (defined as Line Managers responsible for a section and reporting directly to a Director) who have a vehicle or staff members who currently have a Holden Acclaim or equivalent vehicle.

**Category D**

Staff members whose position requires a vehicle and are eligible to apply for the private use of that vehicle and staff members who are provided a vehicle as part of their employment package.

**Category E**

Staff members who currently have partial private use of the vehicle.

**Category F**

Staff members whose position requires a vehicle but who are not entitled to any private use of the vehicle.

Any eligible employee under this policy must at all times have an appropriate and current licence for the vehicle they are driving.

**Other**

Eligible employees may also fit into two further categories:

- i. where the lease of a motor vehicle is provided as a condition of employment
- ii. where the lease of a motor vehicle is provided as a discretionary benefit.

The Local Government (State) Award 2010 states

**15. MOTOR VEHICLE LEASEBACK****A. GENERAL**

*The parties to this Award recognise that leaseback vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.*

*A leaseback vehicle will be considered to be a condition of employment for an employee unless it was clearly identified that it was not being provided on such a basis at the time that it was provided.*

*Factors to consider when determining whether a leaseback vehicle is a condition of an employee's employment include:*

- *Whether the vehicle was offered as an incentive to attract and/or retain the employee; and*
- *The period that the employee has had access to a leaseback vehicle.*

**4. PRIVATE USE**

- 4.1 "Private Use" shall mean the travelling and conveyance of the Employee or the Employee's spouse, partner, family or friends on activities of that employee outside the Employee's working hours and during periods of leave or authorised absences BUT DOES NOT INCLUDE the loan, rent, hire, sub-lease of that vehicle under any circumstance whatsoever. The Employee shall not use the vehicle outside of the working hours of the Employee other than for the private purposes of the employee as herein defined and permitted.
- 4.2 Provided further that it is permissible for another member of the Employee's family to drive the vehicle, provided the employee is in the vehicle at the time (excepting unforeseen emergency situations) and further, provided that the Employee's spouse or partner has the right to drive the vehicle unaccompanied by the lessee.

- 4.3 Provided further that where a private use journey of more than two hours duration is being undertaken, or a genuine emergency situation exists, a suitably licenced non-family member may drive the vehicle provided the employee is in the vehicle at the same time.
- 4.4 Interstate travel must be approved by the General Manager prior to it being taken. (Travel to the ACT is not considered interstate travel in the context of this policy.)
- 4.5 Eligible employees have the option of leasing a vehicle for private use in accordance with their category under Council's Vehicle Policy and in accordance with the terms and conditions of this policy and the Lease Back Agreement.

Employees in job share/part time positions are not eligible to lease a vehicle for private use. This may be varied in exceptional circumstances but each individual request would be treated on its merit and would be only allowed with the approval of the General Manager.

- 4.6 All infringement notices are the responsibility of the employee to whom the vehicle has been leased/allocated or the driver responsible for the vehicle at the time of the infringement. Failure to pay any infringement notice/s will be considered a breach of this policy. (See Clause 12 -Breaches).
- 4.7 Accessories

The Employee may, with the approval of the General Manager of the Council, fit accessories to the vehicle at his/her own expense, but no reimbursement shall be provided by the Council to the employee for such accessories at any time. Approved accessories shall be provided by Council on replacement vehicles

- 4.8 Vehicle Lease Fee

A lease fee for the use of the vehicle will be paid by way of a weekly salary deduction. The fee will be calculated in accordance with Council's Lease Back Agreement.

- 4.9 Surrender of Vehicle

4.9.1 The Employee agrees that in accordance with Council's policy, the vehicle will be traded in and replaced as and when required by the employer. The new vehicle will be one similar to that traded, unless Council's requirements for the vehicle specifically alter or due to altered working conditions of the Employee. (Any such replacement vehicle shall be deemed to be the vehicle covered by any lease agreement.)

4.9.2 Vehicles will be replaced in accordance with Council's prevailing policy at the time.

## **5. FRINGE BENEFITS TAX**

- 5.1 In order to satisfy Council's requirements in relation to Fringe Benefits Tax (FBT) on the private use of vehicles it is necessary that each vehicle attain, on an annualised basis, the 25,000 km threshold level for fringe benefits tax calculations.

When a vehicle is nearing replacement it is the employee's responsibility to consult with Council's Taxation Accountant to ascertain the number of km required to reach the annualised taxation threshold of 25,000 km.

If a vehicle is replaced it is the responsibility of the employee to advise the Taxation Accountant and seek advice as to how many km need to be travelled before the end of the FBT year.

Failure to reach the annualised taxation threshold on each vehicle may result in a higher than expected reportable benefit on an employee's group certificate.

- 5.2 The employee agrees to meet the costs of the FBT tax payable by Council, should this be required, for any amount in excess of the 25,000 km threshold level tax calculation.
- 5.3 Should the lease holder pay the lease fee through a salary sacrifice agreement, they are held responsible for ensuring fees are calculated correctly and the payroll officer advised. Any subsequent recalculation to reflect any change, such as change over of vehicle, or change in lease fee, must be done immediately following the change and the payroll officer advised. Any costs relating to FBT tax payable by Council as a result of engaging in a salary sacrifice agreement must be met by the leaseholder.

## 6. AVAILABILITY FOR COUNCIL USE

- 6.1 The vehicle remains the property of the council and is to be made available by the Employee for use by Council (including other Council employees) during the employee's working hours as provided for in the industrial award covering the Employee or such other time as the Employee shall be rostered for work by the Council. Council's requirements for use of the vehicle by the Employee for Council activities will have priority over the private use of the vehicle, during the time when the employee is rostered to work.
- 6.2 Subject to paragraph 6.1 above, eligible employees may use the vehicle outside of working hours of the Employee (including weekends, rostered absences and periods of leave taken by the employee) for the private purposes of the Employee. Private use for periods in excess of four weeks will be subject to the approval of the General Manager.

## 7. VEHICLE EXPENSES

- 7.1 Council will provide a fully maintained car and is responsible for all vehicle expenses other than those outlined in Clauses 4.6, 4.7, 5 and 11.
- 7.2 The Employee shall be provided with a Fuel Card for the purchase of petrol and oil only. In unforeseen emergency situations or occasions where the employee is unable to attend a service station which accepts the provided fuel card, if fuel is purchased by the employee, documentary evidence is

required for reimbursement. Reimbursement will be by way of a cheque request.

### 7.3 Cleaning and Security

The Employee shall:

- (a) wash and clean the vehicle at least once per week and shall polish the vehicle at least once each six months; and
- (b) properly secure the vehicle when left overnight and shall house the vehicle in a garage, if garage space is available, at the premises of the Employee and if no such garage space is available, then the Employee shall park the vehicle off the public road and on the private property of the Employee, if possible.

## 8. COUNCIL DIRECTIONS AND RULES

The Employee shall comply with the instructions and rules, including the maintenance of log books, for the general operation of the vehicle from time-to-time given by the General Manager or other Council Officers authorised to give instructions pertaining to the use of the vehicle by the Employee.

## 9. NOTIFICATION OF DEFECTS/DAMAGE

The Employee shall promptly notify Council in writing of any defects or damage to the vehicle. A written memorandum to that effect shall be submitted to the Director Engineering Services for the attention of the Workshop Manager.

## 10. REPAIR AND MAINTENANCE

The Employee shall keep the vehicle in good repair and condition by ensuring that the workshop conducts regular services in accordance with the manufacturer's logbook and any maintenance schedules laid down by Council's Workshop Manager. The Employee shall comply with the guarantee requirements of the manufacturer of the vehicle.

## 11. INSURANCE

- 11.1 The Council shall take out comprehensive insurance cover on the vehicle, covering private use of the vehicle by an employee.
- 11.2 In the event of an accident outside of the working hours of the Employee and whilst the vehicle is being used for private use the Employee shall be required to pay the excess provided in Item 3 of Schedule 1 in the Motor Vehicle Lease Agreement on demand by the Council to the Council provided that should the said excess be recovered by the insurance company and be reimbursed to Council, then the Council shall repay the excess to the Employee. The amount of the excess may be varied by Council from time-to-time, in accordance with changes to Council's insurance policy arrangements with this amount to be notified to the Employee.
- 11.3 If the Employee or any person using the vehicle with his/her permission shall breach any of the conditions of the insurance policy of Council, including consumption of alcohol beyond the prescribed limit, and Council's insurance

company should fail and refuse to meet the claim for the accident, the Employee shall be liable to Council for

- reimbursement of the cost of repair of the vehicle (and any other vehicle for which Council would be liable for repair)
- and for any other damage suffered by Council as a result of the accident not recoverable from the insurance company by virtue of the breach of the condition of the insurance policy.

11.4 Should the vehicle be involved in an accident:

- The driver must not admit liability.
- The driver should stop and lend assistance to injured persons, if possible. Call for an Ambulance and Police, if necessary.
- The driver should, in accordance with the Motor Traffic Act, report the Accident to the Police within 24 hours. This can be done by either presenting at the police station or phoning the Police Assistance Line on 131 444.
- The driver should obtain all particulars. Record the names of all persons involved including that of the Police Officer, position of vehicles involved, names and addresses of individuals involved, witnesses and any action taken.
- The driver should report all accidents to Council's Human Resources Department who will then report the incident to the person within council responsible for organisation of claims and repairs.
- If a member of the public is injured/known to be injured, the driver should advise the General Manager.

## 12. BREACHES

Any breaches of the provisions of this policy may lead to the employee (i) losing access to a vehicle, and/or (ii) facing disciplinary action.

## 13. VARIATION OF VEHICLE LEASE ARRANGEMENTS

Variation of any motor vehicle lease agreement will be in accordance with the Local Government (State) Award 2010 as detailed below:-

### *C. VARIATION OF LEASEBACK VEHICLE ARRANGEMENTS*

- (iv) *Variations to leaseback arrangements – Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fee shall be referred to Council's Consultative Committee in accordance with Clause 28 of this Award.*
- (v) *Variations to leaseback fees – A council shall not increase the leaseback vehicle fee an employee is required to pay in any one year by more than ten (10) percent or the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0), whichever is the greater. This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).*

- (vi) *Variations in hours of work and/or extended periods of absence – Where an employee’s hours of work change significantly or the employee is absent on approved leave for an extended period, the council and the employee shall discuss whether the employee will be allowed to retain possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the event that the leaseback vehicle fee is to be adjusted, subclause (v) above shall not apply. In the absence of agreement, Clause 31, Grievance and Disputes Procedures, shall apply.*

#### **14. TERMINATION OF VEHICLE LEASE ARRANGEMENTS**

Termination of any motor vehicle lease agreement will be in accordance with the Local Government (State) Award 2010 as detailed below:-

##### ***B. TERMINATION OF LEASEBACK VEHICLE ARRANGEMENT***

- (i) *Condition of employment – Unless otherwise provided in this clause, where a council and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.*
- (ii) *Not a condition of employment – Unless otherwise provided, where a council and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, the council shall give a minimum of six (6) months written notice of termination of the arrangement.*

*Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, the council shall give a minimum of 12 months notice to terminate the agreement.*

- (iii) *Other – A council may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with the council that does not include access to a leaseback vehicle.*

#### **15. POLICY VARIATIONS**

- 15.1 This policy may be reviewed periodically. Employees will be subject to eligibility/entitlement provisions in accordance with policy conditions as varied from time.
- 15.2 Council reserves the right to revoke the policy.

<b>POLICY:</b>	MOUNT PANORAMA - OPERATIONS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #8.3.5 Council Meeting 1 February 2023 Resolution No: ORD2023-10
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	11.00039/040, 04.00009
<b>OBJECTIVE:</b>	Provide guidelines on the use of Mount Panorama Racing Circuit on occasions other than those covered under the Mount Panorama Act.

### Part A

The following conditions are to be met by potential promoters before Council will give further consideration to applications to permit events at Mount Panorama.

- (1) Obtain suitable licence from the appropriate authority (CAMS, ACU) and also indicate ability to provide suitable public liability insurance cover, with an underwriter suitable to Council, or such sum as Council may determine from time to time (refer to Council's public liability policy).
- (2) Obtain Police approval for the event;
- (3) Indicate to Council the promoter's ability to meet the cost of preparing the Circuit and surrounds;
- (4) Indicate to Council the promoter's ability to conduct a successful, high quality event, which is in keeping with the tradition of Mount Panorama. The promoter should be able to provide details of previous events organised and promoted, and should also indicate the ability to obtain sufficient staff to conduct the event;
- (5) Consideration would need to be given by the promoter to the effect the event would have on residents at Mount Panorama and arrangements made, which must be approved by Council, to ameliorate the effects.
- (6) That a circuit hire fee be charged in accordance with Council's revenue policy.



Part BFilming of advertising at Mount Panorama

The following conditions will apply to the filming of advertising and/or events staged for private gain on the Mount Panorama Racing Circuit:

- (1) A fee will be charged in accordance with Council's Revenue Policy. Any costs incurred by Council in assisting, will be recovered, in addition to the fee charged.
- (2) Road closures to occur only if absolutely necessary. If they are necessary,
  - (a) liaison with the affected residents should take place;
  - (b) the closures should be such that they cause a minimum of inconvenience to tourists and residents;
  - (c) liaison must occur with the Police;
- (3) The times at which helicopters and other special equipment, not normally used at Mount Panorama can be operated, should be restricted to between 7.30am and 7pm.
- (4) Toilets and other facilities are to be made available to those involved in filming the advertisement and/or event.
- (5) Council requires a suitable public liability policy with Council joined as a principal, for such a sum as Council may determine from time to time, (refer Council's public liability policy).

Use of Mount Panorama Racing Circuit for Closed Club Hill Climbs

Visiting car clubs be charged a fee in accordance with Council's Revenue Policy for the use of part of the Mount Panorama racing circuit for events such as hill climbs, together with actual expenses incurred in advertising and provision of barricades, etc.

Use of Mount Panorama – Defensive Driver/Rider Training Courses

That:

- (a) A fee in accordance with Council's revenue policy will be charged per course for the use of Pit Straight
- (b) The hirer is responsible for any labour costs incurred by Council in supplying or picking up barricades, signs, witches hats, etc;
- (c) The hirer is responsible for the costs in advertising the road closure; and
- (d) Council requires a suitable public liability policy with Council joined as a principal, for such a sum as Council may determine from time to time, (refer Council's public liability policy).

Use of Mount Panorama Racing Circuit – Time Restrictions

Car Clubs and other similar organisations are not permitted to hold a meeting within the period of 4 weeks prior to and 2 weeks after major race meetings (with the exception of the V81000 events which has an exclusion period of 4 weeks before and after the event). This will apply to any other event as Council may determine.

### Mount Panorama Racing Circuit – Erection of Scaffolding

Pursuant to the provisions of the Local Government Act, 1993, as amended, Council prohibit the erection of scaffolding on the Mount Panorama Racing Circuit, and in particular, on Sulman Park, Harris Park, Reid Park and McPhillamy Park and for that purpose:

- (a) Signs be erected at the entrance to the Mount Panorama Racing Circuit informing the public that scaffolding cannot be taken through the gates of the Mount Panorama Racing Circuit.
- (b) Council to police and implement Council's policy in respect to the erection of scaffolding at Mount Panorama.

### Implementation of the 50 DBA Noise Reference Line – Mount Panorama

No further lands which are located within the 50 DBA noise contour be rezoned for either residential or rural residential purposes.

### Mount Panorama – Overtrack Sign Structures

Overtrack sign structures at the Mount Panorama Circuit remain erected permanently.

### Mount Panorama Racing Circuit – Attachments to Concrete Walls

- (a) Permission not be granted to any request to attach any sign to the concrete walls at Mount Panorama, however, permission will be given to a neat, small sign painted on the concrete wall identifying the property name/advertisement. The work to be carried out at the applicant's cost, and to the satisfaction of Council;
- (b) That the attachment of any signs to the concrete wall first line protection must be in accordance with the FISA Safety Criteria for Motor Racing Courses (note at this time attachment of signs is contrary to FISA criteria).
- (c) Where the sign is removed at race times, any costs of reinstatement will be at the full cost of the applicant.

### Applications for On-Licence (Function) Licences

That in the case of applications to the Licensing Court of NSW for on-licence (function) licences for functions lasting three days or less, or which are associated with the one major race meeting at Mount Panorama, that Council have no objection to the granting of the licence, and that Council respond to notices in respect of such applications in accordance with this policy.

### Mount Panorama – Commercial Management – Guidelines

#### 1. Objectives

Council's main aims in approving more than one event are:

- To maximise economic benefits to the City;
- To maintain the status of the Mount Panorama circuit as Australia's premier circuit

- That the income earned by Council from events, at least covers Council's costs in preparing and providing the circuit. (Preferably, such income will exceed such costs, with the surplus to be directed to capital improvements at the circuit.)

## 2. Internal Management

Council's approval of more than one race meeting requires that internal management will be administered in such a way as to;

- (i) allow competition between the two events to occur;
- (ii) encourage profits to be made from both events;
- (iii) give confidence to each race promoter, that Council is equally committed to all events, yet is managing them in a way which respects commercial Contracts and confidentiality;

To achieve these aims, racing at the Mount will be managed in the following way:

### Management

The General Manager will be responsible for the overall administration of commercial contract relationships, management of staff and financial resources, and council operations generally. The General Manager will delegate the responsibility for the various functions, in relation to the organisation and staging of major race meetings.

### Mount Panorama Committee

The Mount Panorama Committee makes recommendations to Council on policy decisions for the future directions of Mount Panorama. Decisions of an operating nature will be made by the General Manager.

### Circuit Preparation and Management

The General Manager will oversee all circuit preparation and management, to the levels required by the Contracts.

The General Manager will ensure that close liaison occurs with race promoters; that appropriate levels of support and Circuit preparation occurs for all events.

Council and the General Manager (or his delegate) will be represented at Consortium Meetings and liaise with promoters.

## Part C

### Food Inspection Fees – Local Community Groups

That local community groups eg sporting bodies, schools, churches etc operating food premises at Mount Panorama, Kings parade and the Royal Bathurst Show be inspected on each day of operation and be charged for only one inspection unless major matters of non-compliance require follow-up at subsequent inspections. The fee to be charged to be in accordance with Council's Revenue Policy. And further, that all non-local commercial food operations be inspected each day of operation and a fee charged for each inspection in accordance with Council's revenue policy.

<b>POLICY:</b>	MOUNT PANORAMA - OVERTRACK SIGNS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.2.7 Council 19 October 2022 Resolution No:ORD2022-363  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	11.00039/041
<b>OBJECTIVE:</b>	To establish guidelines for the erection of overtrack signs at Mount Panorama

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That Council leave the signs erected, subject to the quality of the signage being able to last for a 12 month period, and modify the development application accordingly.

**POLICY:** MOUNT PANORAMA MOTOR RACING CIRCUIT – RESIDENT ACCESS – FULL TRACK HIRE

**DATE ADOPTED:** Director Corporate Services & Finance Report #8.3.8  
Council 19 April 2023  
Minute Book No. ORD2023-95

**ORIGINAL ADOPTION:** Director Corporate Services & Finance's Report #9  
Council 10 December 2008  
Minute Book No. 10564

**FILE REFERENCE:** 18.00150

**OBJECTIVE:** To provide clear guidelines and direction to event organisers of their obligations to Bathurst Regional Council (BRC) and residents when hiring Mount Panorama Motor Racing Circuit for full track Motor Race events.

## 1. Definitions

In this Policy, unless the context otherwise requires:

**“Act”** means the Motor Sports Events Act 2022 (NSW) or such other Act or legislation as may replace the Act.

**“BRC”** means Bathurst Regional Council.

**“Motor Race”** means motor race events, as defined by the Act and Regulation, which utilise the entire Race Track. Motor Race events are one of the five meetings permitted under the Act and currently include:

- Bathurst 12-Hour, held annually in February,
- Bathurst 6-Hour, held annually at Easter,
- Bathurst 1000, held annually in October,
- Bathurst International, held annually in November, and
- Challenge Bathurst, held annually in November/December.

Motor Race events are long term contractual events, and form part of the regular Mount Panorama motorsport calendar. The current names, and timing of the events may change from time to time.

**“Mount Panorama Circuit”** means the land within the local government area of Bathurst Regional as designated under the Act.

**“Partial Closure”** means an event that does not require the closure of the entire Race Track.

**“Race Track”** means any part of a road or road related area within the Mount Panorama Circuit that is used for motor racing, as defined in the Act.

**“Regulation”** means the Motor Sports Events Regulation 2022 (NSW) or such other Regulation or legislation as may replace the Regulation.

**“Resident”** means a person whose residence is located adjacent to the Race Track and whose principal means of access to that residence is from the Race Track.

**“Resident Access Plan”** means the Plan developed by BRC and each event organiser for the provision of a reasonable access route for the residents of Mount Panorama.

**“Secondary/Alternate Access”** means access to Mount Panorama residences via roads/tracks other than the Race Track.

**“Traffic Management Plan”** means the Plan developed by the event organiser or BRC for the co-ordination of spectators, residents and other access to and from the Mount Panorama Circuit during an event.

## 2. Background

Mount Panorama is currently supported by the Act and Regulation which permits five Motor Race events per year.

The needs of BRC and existing residents on Mount Panorama must be considered particularly with full Race Track closures. These include, but are not limited to, resident access, use of private property by event organisers, security checks, and access for services and tradespersons.

As prescribed by the Act, section 5(1)(c)(i) designates Bathurst Regional Council as the promoter for motor race events at Mount Panorama.

## 3. Resident Communication

A minimum of two (2) residents' meetings will be held during each calendar year, between BRC and the Residents. The purpose of these meetings is to provide a forum for updates, feedback and discussion on Mount Panorama events and works.

Should a new Motor Race event be introduced, or an existing Motor Race event's schedule be changed to the extent that resident access is significantly altered, a meeting involving the event organisers, BRC and the Residents shall be held at least 30 days prior to the event to discuss resident access matters.

Additional meetings may be requested by BRC or the Residents and will be held at a time convenient to BRC and Residents.

Residents will be provided with an updated Mount Panorama events twelve (12) month calendar in June and December of each year.

Each Motor Race event may have different flexibility to meet the residents' needs and these will be presented to residents for consideration no later than 30 days prior to the event.

Residents are to be notified of any proposed new Motor Race event at least 60 days prior to the event.

#### 4. Resident Notifications

No later than **60 days** prior to an event, a preliminary notice will be provided to residents about the upcoming event.

No later than **30 days** prior to each planned event, each Resident is to be provided with a Resident Information letter by the event organiser, which has been prepared in consultation with BRC, providing details which may include, but are not limited to:

- Resident Access
- Resident Car Park
- Deliveries (e.g. newspapers etc.)
- Emergencies including the access for Emergency Vehicles / Services
- Event Management Office
- Garbage Collection (incl. Organics/Green Waste and Recycling)
- Livestock & Pets
- Mail Deliveries
- Race Program
- Race Track Closing and Opening Times
- School Bus Access
- Spectator Viewing
- Taxi Access
- Telephone Contacts (Event Management Office, Security, Resident Liaison etc.)
- Ticket Allocation
- Travel Direction
- Tunnel Access

#### 5. Race Track Closure Times

Closure of the Race Track shall not occur before 7:00am and must be reopened by no later than 6:00pm for resident access, unless specified elsewhere in this Policy.

For the **Bathurst 12-Hour event** full closure of the Race Track shall not occur before 5:00am and must be reopened by no later than 6:30pm on the day of the 12 Hour race.

For the **Bathurst 6-Hour event** full closure of the Race Track shall not occur before 7:00am and must be reopened by no later than 6:30pm on the day of the 6 Hour race.

For the **Bathurst 1000 event** full closure of the Race Track shall not occur before 7:00am and must be reopened by no later than 6:30pm on the day of the 1000km race.

The current names of events may change from time to time.

With the exception of the day of the feature race for each event, a minimum of a one (1) hour lunch break must be provided for each day of the event for Resident access which includes both opening and closing of the Race Track.

Any planned variations that exceed these general principles will require separate consultation with BRC and the Residents.

## 6. Associated Events

The Act provides that a Motor Race Authorisation as issued by the Minister may authorise the conduct of a motor race, associated events and ancillary activities.

For the purposes of this Policy, “associated events” include, but are not limited to, events such as manufacturer ride days, driver experiences and passenger experiences approved under a Motor Rate Authorisation issued for an associated Motor Race event.

For “associated events” requiring **full closure** of the Race Track, the closure of the Race Track shall not occur before 8:00am and must be reopened by no later than 5:30pm for resident access, and a minimum of a one (1) hour lunch break must be provided for each day of the event for Resident access which includes both opening and closing of the Race Track.

## 7. Race Track Opening During Events

During any full Race Track closure for events, once the Race Track is open after the specified time, the Race Track becomes accessible to residents until the Race Track is closed again at the following scheduled time. Additional road barriers and traffic control may, however, still remain in position.

## 8. Secondary/Alternate Access for Residents

Secondary/alternate vehicular access is provided to all residents.

BRC has an ongoing program to improve secondary/alternate access arrangements to the residents. This program will continue and residents will be updated regularly on progress being made. Ongoing maintenance of secondary/alternate access roads will be provided.

Residents not wishing to use the secondary/alternate access should wait in the resident parking area adjacent to the Race Track entry gates for the Race Track to open. When the Race Track is opened, Residents will be given priority to access their residences.

Access to the resident parking area will be provided via gates on the corner of Havannah Street and Lloyds Road, and be controlled by security staff or as otherwise advised.

## 9. Resident Ticketing

BRC has the responsibility to deliver tickets to residents 30 days prior to an event.

For ticketed events, each Resident will be allocated 13 Resident General Admission Tickets and 10 Resident Vehicle Passes per household, per event.

Residents may request additional vehicle passes prior to each event. All vehicle passes are to be numbered so BRC and event organisers will have a record of the property location relating to each vehicle pass. All occupants of residents' vehicles must be in possession of a valid event admission ticket.



Resident vehicle passes (stickers) should be distinct and easily identifiable by the event security and/or traffic controllers to efficiently facilitate residents' access to their respective residences.

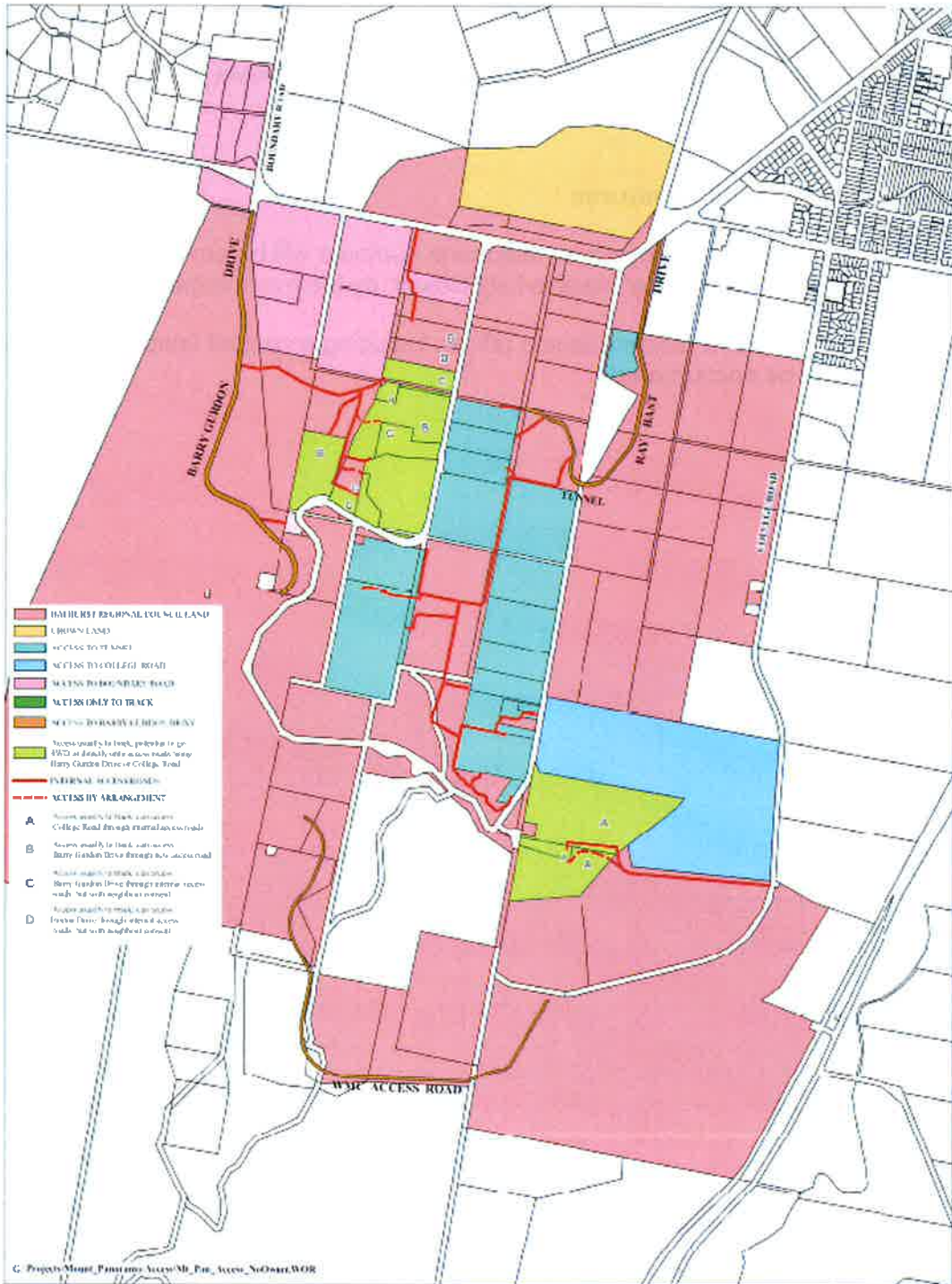
For non-ticketed events where no spectators are involved additional resident access passes may be obtained from the event organiser on request and at the event organiser's sole discretion.

## **10. Emergency Contact Procedures**

For each event, emergency contacts with telephone numbers will be provided for resident use during periods when the Race Track is fully closed, by the event organiser.

BRC will provide details of a resident liaison officer, including a contact telephone number should any difficulty be encountered.

## BATHURST REGIONAL COUNCIL Restricted Access Map



Bathurst Regional Council expressly disclaims all liability for errors or omissions of any kind whatsoever, or any loss, damage or other consequence which may arise from any person relying on information in this Plan.  
 Date: 14/11/2019 Note: The colors of this Plan do not indicate land use under the Bathurst Regional Council Visual Environment Plan 2005. Blue Shaded Equipment of Land 2005. Blue Shaded Equipment of Land 2005.

<b>POLICY:</b>	MOUNT PANORAMA – SALE OF PETER BROCK TRIBUTE PHOTOS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120  Director Corporate Services & Finance’s Report #8.3.7 Council 21 April 2021 Resolution No. ORD2021-111 Council 19 May 2021 Resolution No. ORD2021-133  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Business & Economic Development’s Report #2 Council 18 July 2007 Minute Book No. 10182
<b>FILE REFERENCE:</b>	23.00122
<b>OBJECTIVE:</b>	To identify use of any funds received from sales of photographic images of the written tributes to Peter Brock

## Background

Resulting from the untimely death of Peter Brock in September 2006, Mount Panorama became a pilgrimage for Brock’s fans. In particular Brock’s Skyline was the focal point for many of his fans to pay their respects. In late 2006 Council commissioned local photographer, Peter Gumpert to capture the thoughts and memories of Peter Brock’s fans who had left their messages on Brock’s Skyline.

## Policy

- (a) the profits that result from any sales of the photographic images of the written tributes to Peter Brock be used to assist funding of the Peter Brock memorial statue; and
- (b) upon the costs of the memorial statue being funded, that future profits be split 50% to each of the Brock Foundation and the operations of the National Motor Racing Museum Brock Wing.

<b>POLICY:</b>	MOUNT PANORAMA STALLHOLDERS  (a) RIGHTS TRANSFER (b) FUTURE OPERATIONS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120  Director Corporate Services & Finance Report #8.2.7 Council 19 May 2021 Resolution No: ORD2021-153 Council 16 June 2021 Resolution No: ORD2021-169  Director Corporate Services & Finance Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	04.00016
<b>OBJECTIVE:</b>	To establish Council's position with respect to the transfer of rights of stallholder operations at Mount Panorama

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- (a) That as rights to stalls at Mount Panorama are given up, the stall is demolished and the rights are not transferred.
- (b) That Council:
- (1) allow the following stallholders to continue to operate at Mount Panorama subject to each organisation complying with the required health and building standards and the payment of the fee set in Council's Revenue Policy to Bathurst Regional Council:
    - (i) Bathurst Cycling Club;
    - (ii) City Red Tops Soccer Club.

### 3.12. N

<b>POLICY:</b>	NAMING OF COUNCIL FACILITIES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.5.1 Council 16 June 2021 Resolution No. ORD2021-189 Council 21 July 2021 Resolution No. ORD2021-233
	Director Corporate Services & Finance's Report #1 Policy 5 December 2018 Council 6 February 2019 Minute Book No. 12902
<b>ORIGINAL ADOPTION:</b>	Director Engineering Services & Report #1 Policy 1 September 2010. Council 15 September 2010 Minute Book No. 10985
<b>FILE REFERENCE:</b>	04.00008
<b>OBJECTIVE:</b>	To provide Council with a set of guidelines for the naming of Council owned and managed public open spaces, including reserves, parks, public gardens, sporting fields / facilities and recreational areas and to allow for the recognition of both the European and Indigenous cultural heritage of the Bathurst Region.

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The guidelines will ensure that the naming of all places is carried out in a consistent manner according to an established set of criteria.

This policy excludes the naming of geographical or topographical features which are covered by the Geographic Names Board and also excludes roads and streets which have their own set of guidelines.

Where existing Council owned public open space is not named, Council will apply this policy and associated guidelines. The policy will not be used to rename places already named, or names approved by Council, Committees or Community Boards by formal resolution.

It is intended that facilities would be named after individuals only in exceptional circumstances and that such naming would:

- Commemorate and recognize individuals, institutions or events that contributed significantly to the betterment of the Bathurst community.
- Demonstrated achievement at a high level.
- Portray the appropriate physical, historical or cultural character of the area/place concerned.

- Be consistent with the overall interest, values and expectation of the Bathurst community.
- Be consistent with the relevant legislation and Geographical Names Board Guidelines where applicable
- Be consistent with Council's guidelines for naming roads.
- Generally, the recommendation to name a Council facility after a person of good character will only be considered after the person is deceased. In exceptional circumstances a Council facility could be named after a person still living in recognition of past contributions, but generally only when the association or link has ceased or is completed.
- Where practicable, the deceased person's next of kin or appropriate relative will be consulted before a deceased person's name is recommended for naming.
- Facilities should not be named for members of Council staff, Councillors, appointees to Committees of the Council or those formally associated with Council, as long as that formal relationship exists.
- The names of existing facilities would only be changed if exceptional circumstances warrant the name to be changed.
- If a facility that has been named is removed or replaced for any reason, or the nature of the facility changes, Council is not obliged to retain the name.
- Council will require sufficient information regarding the request to name the specific area/facility and such information will need to be collaborated by an independent source.
- Council may forward any request to name a specific area/facility to any other party (e.g. Bathurst District Sport and Recreation Council, local sporting organization, Geographical Names board, Bathurst District Historical Society, Local Aboriginal Land Council etc) for comment.

### **Approval**

Approval will be based on the merits of each application and on the guidelines as set in this policy. Proposals for the naming of facilities may come from a variety of sources including individuals, groups, clubs, committees and societies etc.

An initial review of the proposal will be made by Council Officers and an assessment of the proposal for its conformance with the criteria and procedure herein.

If assessed as conforming, the proposal will be advertised in Council's column in the local newspaper for a minimum of 2 weeks to allow for the community an opportunity to comment. Following this, the proposal will be put to Council for final consideration and approval.

Council will ensure the origin of the name will be clearly stated and recorded.

Once approved, the installation and type of signage will be coordinated by Bathurst Regional Council with the cost being borne by the applicant of the request or in exceptional circumstances by Council.

<b>POLICY:</b>	NATIONAL FRAMEWORK FOR WOMEN IN LOCAL GOVERNMENT
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023-269  Director Corporate Services & Finance’s Report #8.2.5 Council 18 August 2021 Resolution No. ORD2021/293 Council 15 September 2021 Resolution No. ORD2021/312  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No.11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	18.00008, 41.00089
<b>OBJECTIVE:</b>	To increase women’s participation in Local Government decision making.

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That Council adopt the Framework for Women in Local Government.

**A. Statement of Commitment**

1. We acknowledge that in Local Government women are under represented both as elected members and as senior members of administrations and that their increased participation in both of these arenas should be encouraged.
2. We agree to review our own policies and practices to ensure that no discrimination or impediment exists, and will take action to ensure that barriers to women’s full participation in Local Government are removed.
3. We will work to create and support an environment in Local Government which is harassment-free and that encourages the expression of and respect for a wide range of views.

**B. Goals**

1. To increase the number of and participation of women in Local Government so that Councils may clearly represent and/or reflect the communities they serve, by:
  - (a) increasing the number of women as elected members and Mayors, and



- (b) increasing the number of women as CEO/General Managers, second and third level managers.

**C. Objectives**

1. To create Councils and communities where women feel able to fully participate and share their skills, knowledge and experience.
2. To work towards harassment-free, participative Councils where options and differences are respected.
3. To develop a climate of understanding among Councillors, CEOs/General Managers and senior staff of the need for the initiatives in this Framework and to enlist their support.
4. Where women choose women-only training and networking, to gain acceptance and support of their participation in these activities.

<b>POLICY:</b>	NUCLEAR WASTE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023-269
	Director Corporate Services & Finance's Report #8.3.5 Council 22 September 2021 Resolution No ORD2021-330 Council 20 October 2021 Resolution No ORD2021-349
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	11.00004
<b>OBJECTIVE:</b>	To identify Council's position in relation to the transportation of nuclear waste through the Bathurst community.

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That Bathurst Regional Council strongly oppose the transportation of nuclear waste through the Bathurst community.

### 3.13. P

<b>POLICY:</b>	POWER OF ATTORNEY
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023-269
	Director Corporate Services & Finance's Report #8.3.5 Council 22 September 2021 Resolution No. ORD2021-330 Council 20 October 2021 Resolution No.ORD2021-349
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	General Manager's Report #4 Council 16 June 2004 Minute Book No. 9252-9253
<b>FILE REFERENCE:</b>	11.00007
<b>OBJECTIVE:</b>	To facilitate the execution of certain documents resulting from resolutions of Council. The purpose of the delegation is to reduce delays in the completion of documents by Council particularly where land sales are involved; subdivision developments occur involving land or easement dedication to the Council; loan mortgages; contracts: leases and the like.

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Council resolved that:

- (1) The Bathurst Regional Council affix the Council Seal to the Power of Attorney as proposed in the report;
- (2) The General Manager's Delegation of Authority be amended to include the Power of Attorney.
- (3) The Bathurst Regional Council revoke the Power of Attorney issued by the former Bathurst City Council to the General Manager passed by resolution dated 16 April 1997 upon the registration of the Power of Attorney for Bathurst Regional Council.

The Power of Attorney adopted is listed below:

"**THIS POWER OF ATTORNEY** is made the seventeenth day of June Two thousand and four by BATHURST REGIONAL COUNCIL (hereinafter called "the Council") WHEREAS the Council wishes to appoint its General Manager as its Attorney to act for the Council to enable him to execute instruments resulting from resolutions made from time to time by the Council.

**NOW THIS POWER OF ATTORNEY WITNESSETH** and the Council DOES HEREBY NOMINATE, CONSTITUTE AND APPOINT the General Manager of the Council for the time being and from time to time holding such office to be the Attorney of the Council for and in the name of and on behalf of the Council to sign any document which the Council would be required to sign for the purposes listed in the schedule hereto provided that the General Manager is not and neither is his wife nor child nor other close relative of his personally a party to the document and for the purpose of this Power of Attorney the expression "General Manager" shall mean the person appointed to that position by the Council pursuant to the Local Government Act or the person temporarily acting in that capacity in the absence of the General Manager and the Council does further declare that:

1. This Power of Attorney shall continue in force until notice of the revocation hereof shall have been received by the Attorney
2. The Council will from time to time and at all times ratify and confirm whatever the Attorney lawfully does or causes to be done pursuant to this Power of Attorney
3. No person or body corporate shall be bound to inquire whether any person who has signed any document pursuant to this Power of Attorney is the holder of the position of General Manager.

#### **THE SCHEDULE**

- i. Agreement for the sale or purchase of any land or other form of property;
- ii. The transfer of any land;
- iii. The acceptance of the transfer of any land;
- iv. The mortgage or other form of security of or over any property;
- v. Loan Agreement documents;
- vi. The acceptance of any mortgage or other form of security;
- vii. The release of any mortgage or other form of security whether registered or unregistered (including any withdrawal of caveat or vacation of causes, writs and orders);
- viii. Any plan of subdivision of land in which the Council has an interest including plan accepting a dedication of land for any purpose;
- ix. Any instrument creating easements over land or releasing varying or modifying any such easement;
- x. The consent to the subdivision of land which is subject to a mortgage or other form of security in favour of the Council;
- xi. Consent to the grant of any easement and/or covenant affecting land which is the subject of a mortgage or other form of security in favour of the Council;
- xii. The lease of any land or other property;
- xiii. Consent to the assignment of the lease of any property;
- xiv. Surrender of the lease of any property;
- xv. Guarantees and indemnities by the Council;
- xvi. Agreements for the provision of services by the Council;
- xvii. Joint Venture agreements
- xviii. Licences for the use of any property or to permit any activity;
- xix. Deposit of money with any financial institution;
- xx. Granting and accepting options in respect of the acquisition or sale of any property whether real or personal or corporeal or incorporeal;
- xxi. To create or release vary or modify any restriction or covenanting affecting land.

**IN WITNESS WHEREOF** the Bathurst Regional Council has hereunto affixed its Seal on the seventeenth day of June 2004 hereinbefore written.

**THE COMMON SEAL OF THE BATHURST  
REGIONAL COUNCIL**

was hereunto affixed on seventeenth day of June 2004  
in pursuance of a resolution of Council passed on sixteenth day of June, 2004

\_\_\_\_\_  
ADMINISTRATOR

\_\_\_\_\_  
ACTING GENERAL MANAGER"

The Power of Attorney will then be appropriately registered with Land and Property Information.

<b>POLICY:</b>	PROCLAMATION – NEW BATHURST REGIONAL COUNCIL
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120
	Director Corporate Services & Finance’s Report #8.3.7 Council 21 April 2021 Resolution No. ORD2021-111 Council 19 May 2021 Resolution No. ORD2021-133
	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	General Manager’s Report #1 Council 16 June 2004 Minute Book No. 9252
<b>FILE REFERENCE:</b>	11.00001
<b>OBJECTIVE:</b>	To document the origins of Bathurst Regional Council

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Both Bathurst City Council and Evans Shire Council have been involved in an amalgamation to form the new Bathurst Regional Council. This change occurred on 26 May 2004 when an Administrator was appointed by the State Government. The Bathurst Regional Local Government Boundary may be altered from time-to-time through subsequent government gazettal’s.

The proclamation governed the operations of Council, in the short term, under the appointment of an Administrator.

Following is a copy of the Proclamation.

## LOCAL GOVERNMENT ACT 1993 - PROCLAMATION

MARIE BASHIR, Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of Part 1, Chapter 9 and Part 5, Chapter 12 of the Local Government Act 1993, do, by this my Proclamation declare that:

- (a) on 26 May 2004, the Areas of the City of Bathurst, City of Lithgow, Evans, Merriwa, Mudgee, Oberon, Rylstone and Upper Hunter Shire are amalgamated so as to constitute new Areas having the names of the Bathurst Regional, City of Lithgow, Oberon, Mid-Western Regional and Upper Hunter Shire as described in Schedules A to E hereto;
- (b) on 26 November 2004, the Area of Coolah is amalgamated with the Area of Mid-Western Regional so as to constitute the new Area of Mid-Western Regional as described in Schedule D hereto;
- (c) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Mid-Western County Council are amended by omitting the former Mudgee Shire Council and Rylstone Shire Council as constituent Councils of the County Council and by inserting the new Mid-Western Regional Council as a constituent Council of the County Council;
- (d) on 26 November 2004, the Mid-Western County Council is dissolved with its operations subsumed into the new Area of Mid-Western Regional in accordance with the provisions set out in Schedule D hereto;
- (e) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Upper Macquarie County Council are amended by:
  - (i) omitting the former Bathurst City Council, Evans Shire Council, Lithgow City Council and Oberon Council as constituent Councils of the County Council and by inserting the new Bathurst Regional Council, Lithgow City Council and Oberon Council as constituent Councils of the County Council; and
  - (ii) providing that there are 10 members on the County Council's governing body to be elected by the constituent Councils following the declaration of the first election as follows:
 

Bathurst Regional Council	4 members
Blayney Shire Council	2 members
Lithgow City Council	2 members
Oberon Council	2 members
- (f) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Upper Hunter County Council are amended by:
  - (i) excluding the former Upper Hunter Shire Council as a constituent Council of the County Council and by including the new Upper Hunter Shire Council as a constituent Council of the County Council; and
  - (ii) the County Council's area of operations increases to include those parts of the former Area of Merriwa that is included in the new Council as described in Schedule E hereto; and
  - (iii) providing that two persons are to be elected as members by the Upper Hunter Shire Council to the County Council's governing body following the declaration of the first election.
- (g) the provisions set out in Schedules A, B, C, D and E hereto apply on and from 26 May 2004 (unless another date is stated), to the new Areas effected by this Proclamation, where applicable.

Signed and sealed at Sydney, this 26th day of May 2004.

By Her Excellency's Command,

TONY KELLY, M.L.C.,  
Minister for Local Government

GOD SAVE THE QUEEN!

## SCHEDULE A

**Land included in the Bathurst Regional Local Government Area**

Area about 3815.01 square kilometres. Commencing at the confluence of the Macquarie River and Tambaroora Creek, Parish of Aberfoil, County of Bathurst: and bounded thence by that river downwards to the northernmost north-eastern corner of Portion 25; by the generally eastern boundary of that portion and Portion 26 and the generally north-eastern and part of the eastern boundaries of Portion 30 generally southerly, generally south-easterly and southerly to the south-western corner of Portion 29; by part of the southernmost southern boundary of that portion easterly to the north-western corner of Portion 39; Parish of St David; by the generally western boundary of the Parish of St David; by the generally western boundary of the Parish of St David generally southerly to the easternmost south-eastern corner of Portion 35, Parish of Lennox; by the generally southern boundary of that portion generally westerly to Lucky Swamp Creek; by that creek upwards to the south-western corner of Portion 57, Parish of Freemantle; by the generally south-western boundary of Portions 84 and 85 generally south-easterly to the westernmost corner of Portion 79, Parish of Byng; by the range forming the generally south-western boundary of that portion and the generally south-eastern boundary of Portions 64, 29 and 62

NEW SOUTH WALES GOVERNMENT GAZETTE No. 90



generally south-easterly and generally south-westerly to the northern boundary of Portion 94; by part of that boundary and a line along the eastern boundary of that portion and Portion 96 easterly and southerly to the northeastern corner of Portion 105, Parish of Colville; by the eastern and part of the southern boundaries of that portion southerly and westerly to the easternmost north-eastern corner of Portion 180; by the easternmost eastern boundary of that portion southerly to the road from Bathurst to Orange; by that road generally westerly to the easternmost north-eastern corner of portion 128; by the eastern boundary of that portion southerly; by a line south-easterly to the north-eastern corner of Portion 135; by the eastern boundary of that portion and portion 96 southerly; by a line along part of the northern boundary of Portion 91 and the northern boundary of Portions 88, 89 and 132 easterly to the north-western corner of Portion 112; by State Highway No. 7 (Mitchell Highway) generally easterly to the north-western corner of Portion 41, Parish of Vittoria; by the western boundary of that portion and the western and part of the southern boundaries of Portion 45 southerly and easterly to its intersection with a line along the westernmost western boundary of Portion 141; by that line, the southern boundary of that portion, part of the southern boundary of Portion 129 and the generally southern boundary of Portion 161 southerly and generally easterly; by a line easterly to the westernmost south-western corner of Portion 164; by the generally southern boundary of that portion generally easterly; by a line easterly to the westernmost south-western corner of portion 163; by the southern and south-western boundaries of that portion easterly and south-easterly; by part of the generally eastern boundary of the Parish of Torrens generally southerly to the northernmost north-western corner of Portion 139, Parish of Galbraith; by the northernmost northern and part of the easternmost eastern boundaries of that portion and southerly to its intersection with a line parallel to 174.1 metres rectangularly distant northerly from the northern boundary of portion 76; by that line easterly to its intersection with a line along the western boundary of the said portion 76; by that line southerly to the north-western corner of the said portion 76; by a line along the northern boundary of that portion easterly to the western boundary of Portion 125; by part of the generally northern and the generally eastern boundaries of the Parish of Galbraith generally easterly and generally southerly to the south-eastern corner of Portion 120, Parish of Galbraith; by part of the generally northern, the generally eastern and the generally south-eastern boundaries of the Parish of Three Brothers and part of the generally southern boundary of the Parish of Neville generally easterly, generally southerly and generally south-westerly to Graingers Creek; by that creek and Rocky Bridge Creek downwards and the Abercrombie River upwards to the generally western boundary of the Parish of Thompson, County of Georgiana; by part of that boundary, northerly, the eastern and generally north-eastern boundaries of Lot 90, DP 753018, northerly and generally north-westerly, the eastern boundary of Lot 91, DP 753018, northerly, part of the southern, the eastern and the generally north-eastern boundaries of Lot 63, DP 753032, easterly, northerly and generally north-westerly, the generally north-western boundary of Lot Pt 1, DP 547757, generally north-easterly, a line easterly, the generally north-western boundary of Lot A, DP 401130, generally north-easterly, the generally western, the generally northern and the eastern boundaries of Lot Pt 1, DP 547757, generally northerly, generally easterly and southerly, the generally western and southern boundaries of Lot B, DP 401130, generally southerly and easterly, the southern and part of the eastern boundaries of Lot 2, DP 1025922, easterly and northerly, the southern boundary of Lot 123, DP 753032, easterly, part of the western, the southern and the north-eastern boundaries of Lot 76, DP 753032, southerly, easterly and north-westerly, the generally eastern boundary of Lot 135, DP 753032, generally northerly, a line easterly and the generally northern boundary of Lot 106, DP 655269, generally easterly to the generally south-western side of Schumachers Road; by that side of that road, generally north-westerly to the western prolongation of the generally south-eastern boundary of Lot 2, DP 818313; by that prolongation and boundary, generally north-easterly, a line, the eastern boundary of Lot 892, DP 815567, northerly, part of the southern and the eastern boundaries of Lot 2, DP 791440, easterly and northerly, the eastern boundary of Lot 130, DP 753052, northerly, the generally eastern boundary of Lot Pt 32, DP 753052, generally northerly, a line northerly, part of the generally eastern boundary of Lot Pt 142, DP 752052, generally northerly, the northern boundary of Lot 9, DP 389174, easterly, the northern and the north-eastern boundaries of Lot 1, DP 389174 and its prolongation, easterly and south-easterly to Triangle Creek; by that creek, downwards, to the western boundary of Lot F, DP 159858; by part of that boundary and the northern boundary of that lot, northerly and easterly, the generally northern boundary of Lot 1, DP 655744 and its prolongation, generally easterly to the eastern side of Burruga Road; by that side of that road, north-easterly to the generally south-western boundary of Lot 7, DP 258535; by that boundary, generally south-easterly, part of the southern boundary of Lot 5, DP 111813, westerly to the Campbells River; by that River downwards to the southern boundary of Lot 6, DP 581791; by part of that boundary, the generally western and the generally north-western boundaries of that lot, westerly, generally northerly and generally north-easterly, the generally north-western boundary of Lot 7, DP 591246, generally north-easterly, the generally south-western boundary of Lot 12, DP 608801, generally south-easterly, the south-western and eastern boundaries of Lot 5, DP 231859, south-westerly and northerly, the generally southern boundary of Lot 3, DP 235777, generally easterly, the southern boundaries of Lot 2, DP 235777 and Lot 81, DP 757039 and their prolongation easterly to Sewells Creek; by that creek and Campbells River, downwards to the southern prolongation of the generally north-eastern boundaries of DP 859300; by that prolongation, boundaries and the generally north-eastern boundaries of DP 632418 and their prolongation, generally north-westerly, generally westerly and generally south-westerly to, again, Campbells River; by that river, downwards and Fish River, upwards to the southern prolongation of the western boundary of Portion 5, Parish of Eusdale, County of Roxburgh; by that prolongation, boundary and the northern boundary of that portion, northerly and westerly, part of the western and northern boundaries of Lot 1 DP 798788, northerly and easterly, the eastern boundary of portion 4, parish of Eusdale, County of Roxburgh, northerly to the southernmost southern boundary of Portion 408, Parish of Thornshope; by part of that boundary and the western, generally north-western and northern boundaries of that portion westerly, northerly, generally north-easterly and easterly; by the generally south-eastern and easternmost northern boundaries of Portion 124 generally north-easterly and westerly to the eastern boundary of Portion 58; by part of that boundary, the northern boundary of that portion and the northernmost northern boundary of the said Portion 124 northerly and westerly to the eastern boundary of Portion 2, Parish of Eusdale; by part of that boundary, the eastern and northern boundaries of portion 3 and part of the eastern boundary of Portion 6 northerly, westerly and again northerly to the north-eastern corner of the said Portion 6; by a line northerly to the south-

eastern corner of Portion 28, Parish of Castleton; by a line along the eastern boundary of that portion northerly to the westernmost southern boundary of Portion 83, Parish of Falnash; by part of that boundary and the westernmost western and part of the northernmost northern boundaries of that portion westerly, northerly and easterly to the south-western corner of Portion 40; by a line along the western boundary of that portion northerly to the southernmost southern boundary of Portion 82; by part of that boundary and part of the generally western boundary of that portion westerly and generally northerly to the southern side of the road forming part of the southern boundary of Portion 64, Parish of Castleton; by a line north to the said southern boundary of Portion 64; by part of that boundary and part of the northernmost northern boundary of Portion 236 westerly to the southernmost southern-eastern corner of Portion 248; by the generally eastern boundary of that portion and part of the western boundary of Portion 228 generally northerly to the south-western corner of portion 62; by the southern and eastern boundaries of that portion easterly and northerly; by the road forming the generally northern boundary of Portion 86, parish of Falnash, north-easterly to its intersection with a line along the eastern boundary of Portion 74, Parish of Castleton; by that line northerly to the southern boundary of portion 241; by part of that boundary and the western and part of the northern boundaries of that portion westerly, northerly and easterly to its intersection with the said line along the eastern boundary of portion 74; by that line northerly to the north-eastern corner of the said portion 74; by part of the generally eastern and part of the generally north-eastern boundaries of the Parish of Castleton, generally northerly and generally north-westerly to the westernmost north-western corner of Portion 57, Parish of Turon; by the westernmost northern and western boundaries of that portion, the generally western boundary of Portion 55, the westernmost western boundary of Portion 39 and part of the western boundary of Portion 16 easterly and generally northerly to the south-eastern corner of Portion 70; by the southern boundary of that portion and the southernmost southern boundary of Portion 77 westerly to Palmers Oaky Creek; by that creek downwards to the south-eastern corner of Portion 159, Parish of Jesse; by the eastern and generally northern boundaries of that portion and part of the north-eastern boundary of Portion 166 northerly, generally westerly and north-westerly to a point south of the easternmost south-eastern corner of Portion 165; by a line north to that corner; by the generally northern boundary of the said Portion 165 and Portion 134 and the northernmost northern boundary of Portion 138 generally westerly; by a line westerly to the easternmost north-eastern corner of Portion 155; by the generally north-eastern boundary of that portion generally north-westerly to the northernmost corner of that portion; by the prolongation north-westerly of the northernmost north-eastern boundary of that portion north-westerly to the south-eastern boundary of Portion 62; by part of that boundary and the generally eastern boundary and the northern boundary of that portion north-easterly, generally northerly and westerly to the road from Bathurst to Upper Turon; by that road generally northerly to the Turon River; by that river downwards and Cunninghams or Crudine Creek upwards to the generally northern boundary of the Parish of Cunningham, County of Wellington; by that boundary, generally westerly to Green Valley Creek; by that creek, downwards to the generally south-eastern side of the road from Hill End to Hargraves; by that side of that road, generally south-westerly to the north-eastern prolongation of the north-western boundary of Lot 78, DP 756873; by that prolongation, boundary and part of the south-western boundary of that lot, south-westerly and south-easterly to a point 50 metres offset on the south-western side of Dixons Long Point Road; by that 50 metres offset generally north-westerly to the northern boundary of Hill End - Tambaroora Common; by that boundary and the generally western boundary of that Common westerly and generally southerly to Tambaroora Creek, aforesaid, and by that creek downwards to the point of commencement.

## 1 Definitions

In this Schedule:

*clause* means a clause in this schedule.

*Director General* means the Director General of the Department of Local Government.

*former Area* means any or all of the following:

- that part of the former Area of the City of Bathurst which, by this Proclamation, is constituted as the Bathurst Regional Council
- that part of the former Area of Evans Shire which, by this Proclamation, is constituted as the Bathurst Regional Council

*former Council* means any of the former Councils of the City of Bathurst or Evans Shire.

*Minister* means the Minister for Local Government.

*new Area* means the Area of Bathurst Regional.

*new Council* means the Bathurst Regional Council.

*proclamation date* means 26 May 2004.

*the Act* means the Local Government Act 1993.

## 2 First election

- (1) The date of the first election of the Councillors of the new Council is 24 September 2005.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the Councillors.

- (3) For the purposes of:
- (a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
  - (b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
  - (c) the conduct of the election by the State Electoral Commissioner, and
  - (d) any other matter relating to the election,
- the new Area is taken to have been constituted on the date of publication of this proclamation.

### **3 Administration of new Council for interim period**

- (1) For the interim period between 26 May 2004 and the declaration of the first election, one Administrator is appointed and is Ms Kath Knowles (former Mayor of former Bathurst City Council) to direct and control the affairs of the new Council.
- (2) If Ms Kath Knowles declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$82,000 per annum on a pro-rata basis for the interim period.
- (4) Any matters before the new Council with respect to the local development process or any other matter in which the Administrator has a pecuniary interest within the meaning of the Local Government Act 1993 is to be determined by a substitute Administrator appointed by the Minister for that limited purpose.
- (5) The Administrator is to complete and lodge with the Acting General Manager within 21 days, a disclosure of interests written return in accordance with Division 2, Part 2, Chapter 14 of the Act in the form prescribed by the regulations.
- (6) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

### **4 Appointment of Acting General Manager**

- (1) The Acting General Manager of the new Area shall be Mr David Sherley (former Acting General Manager of the former Bathurst City Council) commencing on 26 May 2004 until the first meeting of the new Council held after the first election.
- (2) The Acting General Manager of the new Council may be confirmed as the General Manager at the first meeting following the first election, or otherwise recruitment processes commenced.
- (3) If the new Council resolves to commence recruitment processes for a General Manager, the term of the Acting General Manager named in subclause (1) is extended until the General Manager commences with the new Council.

### **5 Number of Councillors**

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

### **6 Ward Structure**

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

### **7 Election of Mayor following the first election**

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Council's first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

### **8 Appointment of the General Manager and other senior staff**

The operation of this clause and clause 4 is not to be regarded as a breach of contract between a former Council or the new Council and a senior staff member (including a General Manager).

**9 Activities of former Councils**

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

**10 Delegations**

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new Council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

**11 Codes, policies and plans**

- (1) The following policies and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
  - (a) local policies for approvals and orders (Part 3 of Chapter 7).
  - (b) management plan (Part 2 of Chapter 13).
  - (c) social or community plan (clause 30 of the Local Government (General) Regulation 1999).
- (2) Where the former councils do not have a current social or community plan as referred to in subclause (1)(c), the new Council shall adopt a new plan in accordance with the Guidelines, within a reasonable period determined by the Director General.
- (3) Each of the following codes, policies and plans of the former Bathurst City Council apply, as far as practicable, to the new Council:
  - (a) code of conduct (section 440).
  - (b) code of meeting practice (Division 1 of Part 2 of Chapter 12).
  - (c) expenses and facilities policy (Division 5 of Part 2 of Chapter 9).
  - (d) EEO management plan (Part 4 of Chapter 11).
- (4) Subclauses (1) & (3) cease to have effect in relation to a code, policy or plan of the new Council when the new Council adopts a new code, policy or plan under the relevant provisions of the Act.

**12 Fees**

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

**13 Organisation Structure**

The initial organisation structure of the new Council is, as far as practicable, to be a composite of the organisation structures of each of the former Councils.

**14 Transfer of Senior Staff**

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
  - (a) the former Bathurst City Council is transferred to the Council of the Area of Bathurst Regional.
  - (b) the former Evans Shire Council is transferred to the Council of the Area of Bathurst Regional.
- (2) The senior staff of each former Council are taken to be the senior staff of the new Council.
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.
- (4) A senior staff member of a former Council can be confirmed in a senior staff position in the new Council, that has an equivalent level of responsibility and remuneration, when the organisation structure is determined by the new Council in accordance with subclause (3), or otherwise recruitment processes commenced.

**15 Transfer and maintenance of other staff**

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Areas made in this proclamation is to be in accordance with this clause:
- (a) Each member of staff of the former Bathurst City Council (a transferred staff member) is transferred to the Council of the Area of Bathurst Regional.
  - (b) Each member of staff of the former Evans Shire Council (a transferred staff member) is transferred to the Council of the Area of Bathurst Regional.
- (2) Section 218CA (maintenance of staff numbers in rural centres) and Part 6, Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

**16 Transfer of assets, rights and liabilities**

- (1) It is intended that the making of any determinations as to the transfer of assets, rights and liabilities of the former Councils by virtue of the constitution of the new Area made in this proclamation is to be in accordance with this clause:
- (a) The assets, rights and liabilities of the former Bathurst City Council are transferred to the Council of the Area of Bathurst Regional.
  - (b) The assets, rights and liabilities of the former Evans Shire Council are transferred to the Council of the Area of Bathurst Regional or the City of Lithgow as determined by agreement between the new Councils of the Areas of Bathurst Regional and City of Lithgow.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
- (a) The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance.
  - (b) The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council.
  - (c) All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council.
  - (d) Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils (to the extent to which that act, matter or thing has any force or effect) is taken to have been done or omitted by, to or in respect of the new Council.
  - (e) Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
  - (f) In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
  - (g) Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
  - (h) Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
  - (i) Any decision of the Land and Environment Court in an appeal from a decision of a former Council, determined by the Court after the proclamation date, shall be deemed to be a decision of the new Council.
- (3) In this clause:

Assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, streams of income, choses in action and documents.

Liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent) and includes liabilities relating to criminal acts.

Rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

**17 General provisions with respect to transfers**

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

**18 Effect of transfer on third party rights**

- (1) The operation of clause 16 (Transfer of assets, rights and liabilities) is not to be regarded:
  - (a) as an event of default under any contract or other instrument, or
  - (b) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (c) as a breach of a contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (d) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 16.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 16.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

**19 Reports and reviews of the new Council**

- (1) A duty of the new Council under any Act, including a duty to report or review, which relates to a period before the proclamation date, is to be performed by reference to the former Areas and the former Councils as appropriate.
- (2) Until 30 June 2004 the records and statutory reporting of the new Council are to be kept as a continuation of the records and statutory reports of each of the former Councils and the new Council's financial transactions are to be apportioned between the various accounting records in such a manner as the new Council determines.
- (3) The new Council's financial and statutory reports for the year ended 30 June 2004 are to be prepared in the form of separate reports for each set of records of the former Councils for the whole of that year.

**20 Auditor**

The Auditor, Alan Morse & Company will be the Auditor of the new Council unless the new Council appoints another Auditor in accordance with Division 3, Part 3, Chapter 13 of the Act.

**21 References to former Areas and Councils**

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

**22 Rating Structures**

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first year of the new Council.

**23 Upper Macquarie County Council**

For the interim period between 26 May 2004 and the election of members of the County Council by the Bathurst Regional Council following the declaration of the first election, the Administrator of the Bathurst Regional Council is entitled to four votes at meetings of the County Council.

**24 Matters to be determined by Minister**

- (1) In order to give effect to this proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11.

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- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council or Lithgow City Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by the new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Council and Lithgow City Council or if the Minister is not satisfied with any agreement reached between the aforementioned new Council and Lithgow City Council, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister may be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the new Council and Lithgow City Council to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

**25 Statement of Intent**

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the Councils of the Areas of the Bathurst Regional and the City of Lithgow in the sharing of information and agreement of all matters necessary to facilitate the provisions of this proclamation.
- (3) The Councillors of the new Council are to exercise community leadership for the whole local government area as set out in the Act.

<b>POLICY:</b>	PROTOCOL FOR RELATIONSHIPS BETWEEN THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITIES AND BATHURST REGIONAL COUNCIL
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Cultural & Community Services Report #1 Policy 4 June 2008 Council 18 June 2008 Minute Book No. 10443
<b>ORIGINAL ADOPTION:</b>	Director Cultural & Community Services Report #1 Policy 4 June 2008 Council 18 June 2008 Minute Book No. 10443
<b>FILE REFERENCE:</b>	09.00031
<b>OBJECTIVE:</b>	To establish protocols for communication with and engagement of Aboriginal and Torres Strait Islander community representatives.

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### What is an Aboriginal & Torres Strait Islander Protocol?

Aboriginal and Torres Strait Islander protocol refers to appropriate ways of including Aboriginal and Torres Strait Islander cultural material and working with Aboriginal and Torres Strait Islander people and their communities.

Much diversity exists between the different Aboriginal and Torres Strait Islander cultures in Australia making it impossible to create one set of rules for working with Aboriginal and Torres Strait Islander material and people, but there are some basic principles that act as a guide to working in a respectful way. Aboriginal and Torres Strait Islander protocol refers to these principles.

The following protocol has been drawn from various sources as follows, and modified for use with local Aboriginal and Torres Strait Islander community representatives.

It has been drawn from various sources as follows, and modified for use with local Aboriginal and Torres Strait Islander community representatives:

- Australia Council, the Federal Government's principal arts funding and advisory body. Source: [www.ozco.gov.au](http://www.ozco.gov.au)
- NSW Premier's Department at [www.premier's.nsw.gov.au](http://www.premier's.nsw.gov.au)
- NSW Department of Education & Training, Science in Context, Working with Aboriginal Communities at [www.anu.edu.au](http://www.anu.edu.au)
- Arts NSW Policies & Principles at [www.arts.nsw.gov.au](http://www.arts.nsw.gov.au)



- ABC Message Stick Cultural Protocols for Aboriginal and Torres Strait Islander Reporting in the Media at [www.abc.net.au/message/proper](http://www.abc.net.au/message/proper)

### What is Aboriginal and Torres Strait Islander Cultural Knowledge?

Aboriginal and Torres Strait Islander Cultural Knowledge is knowledge relating to the cultural practices and the heritage of Aboriginal people. (Source: Arts NSW Policies and Principles).

Significant issues in the cultural identity of both Aboriginal and Torres Strait Islander people include:

- kinship.
- recognition and respect as a distinctive people.
- relationship to land and sea.
- preservation of customs, laws and language. (Source: ABC Message Stick Cultural Protocols at [www.abc.net.au/message/proper](http://www.abc.net.au/message/proper)).

### What is Aboriginal and Torres Strait Islander Heritage?

" Heritage consists of the intangible and tangible aspects of the whole body of cultural practices, resources and knowledge systems that have been developed, nurtured and refined (and continues to be developed nurtured and refined) by Aboriginal and Torres Strait Islander people and passed on by Aboriginal and Torres Strait Islander people as part of expressing their cultural identity." This definition was formulated by Terri Janke and published in her book, *Our Culture: Our Future*, p 11.

The United Nations Report of the Seminar on the Draft Principles and Guidelines for the Protection of the Heritage of Aboriginal and Torres Strait Islander People by the Chairperson-Rapporteur: Mrs. Erica-Irene Daes (Geneva, 28 February - 1 March 2000) describes heritage as:

- The heritage of Aboriginal and Torres Strait Islander peoples has a collective character and is comprised of all objects, sites and knowledge including languages, the nature or use of which has been transmitted from generation to generation, and which is regarded as pertaining to a particular people or its territory of traditional natural use. The heritage of Aboriginal and Torres Strait Islander peoples also includes objects, sites, knowledge and literary or artistic creation of that people which may be created or rediscovered in the future based upon their heritage.
- The heritage of Aboriginal and Torres Strait Islander peoples includes all moveable cultural property as defined by the relevant conventions of UNESCO; all kinds of literary and artistic creation such as music, dance, song, ceremonies, symbols and designs, narratives and poetry and all forms of documentation of and by Aboriginal and Torres Strait Islander peoples; all kinds of scientific, agricultural, technical, medicinal, biodiversity-related and ecological knowledge, including innovations based upon that knowledge, cultigens, remedies, medicines and the use of flora and fauna; human remains; immoveable cultural property such as sacred sites of cultural, natural and historical significance and burials.
- Every element of an Aboriginal and Torres Strait Islander peoples' heritage has owners, which may be the whole people, a particular family or clan, an association or community, or individuals, who have been specially taught or initiated to be such custodians. The owners of heritage must be determined in accordance with Aboriginal and Torres Strait

Islander peoples' own customs, laws and practices. (Source: Arts NSW Policies and Principles).

### **What are some of the characteristics of Aboriginal and Torres Strait Islander Cultural Knowledge?**

- **Aboriginal and Torres Strait Islander Cultural Knowledge:**
  - Has been held and passed on by Aboriginal people for thousands of years. It changes and develops as Aboriginal culture changes and develops.
  - Is sometimes owned communally by a family, clan or group.
  - Is often held by a particular custodian in the family or clan.
  - May be passed on by the holders of the knowledge according to particular rules. These rules are sometimes referred to as customary law.
  - Is often learned and taught by talking and listening, rather than reading and writing. Aboriginal Cultural Knowledge is often not written down or recorded by the people who teach it or learn it. (Source: Arts NSW Policies and Principles).

## **Protocol Principles**

### **Respect**

The rights of Aboriginal and Torres Strait Islander people to own and control their cultures should be respected. Diversity of Aboriginal and Torres Strait Islander cultures should be acknowledged and encouraged. Aboriginal and Torres Strait Islander worldviews, lifestyles and customary laws should be respected in contemporary life.

### **Aboriginal and Torres Strait Islander Control**

Aboriginal and Torres Strait Islander people have the right to self-determination in their cultural affairs.

### **Consultation, Communication and Consent**

Aboriginal and Torres Strait Islander people should be consulted on the way in which their history, community, interviews, lives and families are represented and used.

Aboriginal and Torres Strait Islander people should be consulted on the use and representation of their Aboriginal and Torres Strait Islander Cultural and Intellectual Property.

Prior to use, Aboriginal and Torres Strait Islander peoples should be informed on the implications of consent.

Consultation should address the communal nature of Aboriginal and Torres Strait Islander society and cultural expression.

### **Interpretation, Integrity and Authenticity**

Aboriginal and Torres Strait Islander people should be consulted concerning the integrity and authenticity of the ways in which their history, community, interviews, lives and families are represented.

Aboriginal and Torres Strait Islander people should be consulted concerning the integrity and authenticity of the representation of their cultural and intellectual property.

### **Secrecy and Confidentiality**

The right of Aboriginal and Torres Strait Islander people to keep secret and sacred their cultural knowledge should be respected. Sacred and secret material refers to information that is restricted under customary law. For instance some information may only be learned or viewed by men or women, or only after initiation.

Aboriginal and Torres Strait Islander people have the right to maintain confidentiality about their personal and cultural affairs.

### **Attribution**

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for their achievements.

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for their contributions and roles in the development of stories.

Aboriginal and Torres Strait Islander people should be given proper credit and appropriate acknowledgement for the use of their cultural material.

### **Continuing Cultures**

Aboriginal and Torres Strait Islander people have responsibility to ensure that the practice and transmission of Aboriginal and Torres Strait Islander cultural expression is continued for the benefit of future generations.

This responsibility should be respected by journalists and incorporated in any dealings with material on Aboriginal and Torres Strait Islander peoples.

### **Sharing of Benefits**

The contribution of Aboriginal and Torres Strait Islander people should be recognised by payment where appropriate. Aboriginal and Torres Strait Islander people have the right to be paid for the use of their Aboriginal and Torres Strait Islander Cultural and Intellectual Property. Payment or voluntary contributions should be discussed up front.

The issue of copyright ownership of the story, image, music, contributions and artwork should be discussed up front.

Aboriginal and Torres Strait Islander people should have the right to control exploitation of their cultural and intellectual property. If consent is given Aboriginal and Torres Strait Islander people have the right to share in the benefits from any commercialisation of their Aboriginal and Torres Strait Islander cultural material.

### **Recognition and Protection under the Law**

Aboriginal and Torres Strait Islander people have the right to protection of their cultural and intellectual property.

Australian law and policies should be implemented to respect and protect Aboriginal and Torres Strait Islander rights to their Cultural and Intellectual Property.

(These principles are sourced from ABC Message Stick Cultural Protocols at [www.abc.net.au/message](http://www.abc.net.au/message)).

## **Consultation, Communication and Consent**

### Consultation

Research should identify the people to contact to discuss a proposal. Prior informed consent is fundamental to effective and culturally appropriate dealings with Aboriginal and Torres Strait Islander peoples.

The nature, purpose and proposed outcomes of the proposal should be disclosed to participants prior to seeking agreement to any involvement in the process. Payment of fees and any copyright issues should also be discussed. Source: (ABC Message Stick Cultural Protocols at [www.abc.net.au/message/proper](http://www.abc.net.au/message/proper)).

### Communication

**Respect** for the communal nature of Aboriginal and Torres Strait Islander social structures is essential in the process of consultation, communication and consent. It is generally not sufficient to consult with one person. It is generally necessary to consult with a series of people, families or clan representatives to inform, consult and seek consent.

"The complex relationships and obligations found in extended families of Aboriginal and Torres Strait Islander Australians means that added responsibilities, not normally expected of non-Aboriginal and Torres Strait Islander families are imposed on Aboriginal and Torres Strait Islander group members. This can affect the ways deals or agreements might be achieved". Source: (ABC Message Stick Cultural Protocols at [www.abc.net.au/message/proper](http://www.abc.net.au/message/proper)).

**Respect** for protocols when referring to a person who has passed away must be checked and followed in research, interview, writing and publication stages.

**Respect** for Aboriginal and Torres Strait Islander time frames and decision making processes is essential during these processes also. Aboriginal and Torres Strait Islander people may take some time to consider an issue. Decision-making processes may require further consultation, further thought and discussion or further information. A group may have to wait until everyone can be present, meetings may need to be scheduled around cultural obligations.

### Consent

Where possible it is also advisable to gain an understanding of any tensions between non-Aboriginal and Torres Strait Islander people and Aboriginal and Torres Strait Islander people in an area, and between the Aboriginal and Torres Strait Islander people in an area. It is

important for the community, and for the quality of the consultation, that these tensions are taken into consideration.

### **How to contact the community**

Each community has individual and unique reasons and beliefs. You can never generalise about what you do for one community is then exactly the same for another, even if it is a neighbouring community. It is recommended that you approach each community and request with respect what you would like to do and ask each community individually

One question that is always raised is "how do you contact the right people and the right community".

1. As a general rule a Community Council, often described as Lands Council, represents most communities.
2. Other representative organizations and committees may exist within the local community.
3. Many government and non-government agencies have Aboriginal and Torres Strait Islander staff whose role may include representing the Aboriginal and Torres Strait Islander community or advocacy on Aboriginal and Torres Strait Islander issues that may be contacted through their employer.
4. Community members and family members may be contacted through local community centres.
5. Broader level communication may occur through Aboriginal & Torres Strait Islander media e.g. Message Stick, Koori Mail or Indigenous Times.

### Council responsibilities

To develop, in partnership with the local Aboriginal community, a protocol for consulting and working with Aboriginal community members. (This document).

To keep a register of contact details for spokes people that are put forward by the local Aboriginal community.

To adhere to any preferences offered by the local Aboriginal community as to who Council should contact in any specific order or for any specific role. (See Method below).

### Aboriginal Organisation responsibilities

To develop a protocol, in partnership with Council, for consulting and working with Council.

To keep the register of contact details up to date by providing Council with information on changes to contact details.

To advise Council of a preferred method for which Council can contact members of the Aboriginal community.

### **Method for Council to consult or work with the local Aboriginal community and/or its members:**

- That proposals be referred to the Bathurst Aboriginal Lands Council, the Indigenous Co-ordination Centre Aboriginal Community Working Party for Bathurst; the Bathurst Local Aboriginal Consultative Committee, Towri Corporation and the Bathurst Wiradjuri Aboriginal Corporation.
- That Council request that proposals be placed before a meeting of each of the above groups so members (including community members) can consider, record and advise a decision on a proposal.
- That Aboriginal organizations and committees circulate the proposal to members using their established processes and respond to Council within a period of four to six weeks.
- Where shorter communication deadlines exist, (example requests for Welcome to Country Ceremonies) Council, may consult with individual Aboriginal Organisations and Committees on a rotating basis.

### Use of Images

That the input to or decisions made on a proposal by each of the above groups be returned to Council for consideration and action.

Consultation is important for decisions on images used of Aboriginal and Torres Strait Islander people. The proposal or project may meet all protocols but this can be undermined by the use of inappropriate accompanying images. Consult with Aboriginal and Torres Strait Islander people about appropriate images.

Images of people should be checked that they do not include images of people who have passed away.

### Warning:

ABC Television, Radio and Online have a warning that is used in the introduction to most programs. The warning below is copyright of the ABC Aboriginal and Torres Strait Islander Programs Unit and you are able to seek permission to use this for your own programs. Contact ABC Aboriginal and Torres Strait Islander Program Unit at [ipu@your.abc.net.au](mailto:ipu@your.abc.net.au)

**WARNING: "Aboriginal and Torres Strait Islander viewers are warned that the following program may contain images and voices of deceased persons".**

Copyright ownership of any information provided should be discussed, and where possible, Aboriginal and Torres Strait Islander people's rights to maintain copyright ownership should be discussed, disclosed and respected.

Images should be related to the story/project/issue. It is inappropriate to place an image of Torres Strait Islander dancers next to a promotion on NSW South Coast dancers.

### Use of the Flag(s)

The Aboriginal Flag is red, black and yellow - the bottom half is red, the top black and a yellow sun is represented in the middle.

The Torres Strait Islander flag is green, black and blue, incorporating a white Dari (headdress) and a white five pointed star beneath it.

There are some important considerations that need to be observed when using Aboriginal and Torres Strait Islander flags:

- Make sure that you use the right flag in stories relating to Aboriginal and Torres Strait Islander people
- For Aboriginal and Torres Strait Islander media events - the preferred protocol is to use both flags.
- Make sure both flags are reproduced, hung and depicted the right way. Often the Aboriginal flag is reproduced upside down.
- You may not need direct permission to reproduce the flag if reporting news.
- For commercial use, special permission would need to be sought from the copyright owners.
- Permission needs to be sought from Harold Thomas for use of the Aboriginal flag if you are a government department reproducing it for any Aboriginal and Torres Strait Islander unit work wear or reports/brochures etc. Price would have to be negotiated by Harold Thomas. There is only one flag company that holds his permission to mass manufacture the flag.
- For permission to reproduce the Torres Strait Island flag: contact the Island Coordinating Council.

### **Aboriginal Ceremonies**

Aboriginal people are the original owners of the land and it is important that this special position of Aboriginal people is recognised and incorporated into official protocol to enable the wider community to share in Aboriginal culture and facilitate better relationships between Aboriginal people and the general community.

By incorporating Aboriginal cultural practices/ceremonies into official events we are able to:

- Recognise and pay respect to Aboriginal peoples, cultures and heritage.
- Communicate Aboriginal cultural practices to the broader community to promote respect and understanding.
- Demonstrate that Aboriginal cultures are living through maintenance and practice of ceremonies and protocols.
- Demonstrate recognition of Aboriginal people unique position which can assist in building relationships and partnerships.

The type of ceremony undertaken at an official event should be appropriate to the nature and size of each event in accordance with the procedures set out below and negotiations with local traditional owners of the land.

It is important to note that ceremonies and practices differ from place to place. The planning timetable of official events should allow time for negotiations with Aboriginal communities, as well, discussion and decision making within those communities. Source: (Aboriginal Cultural Protocols and Practices Policy at [www.premier.s.nsw.gov.au](http://www.premier.s.nsw.gov.au)).

### **Minimum requirements**

When planning an official event, Council should consult with the Aboriginal Community representative bodies as described above to obtain specific information on:

- Appropriate ceremonies and performances.
- Traditional owners of the land who should be contacted.
- Contacts for Aboriginal cultural practice provider.

As a minimum requirement, an *Acknowledgement of Country* ceremony should be undertaken. A protocol for the ceremony is provided below. At events at which flags are shown, the order of display, from an audience perspective from left to right, the Australian flag, the NSW flag, the Aboriginal flag and the Torres Strait Islander flag.

## **Major Official Events**

All major official events, where members of the public, representatives of Council or other Governments and/or the media are present, should include a Welcome to Country ceremony or Acknowledgement of Country. Events in this category include:

- commemorations and major festivals;
- conferences held by Council;
- International events (including sporting events) held in the Bathurst Region of which Council is an organiser or sponsor.

Agencies and communities are encouraged to be innovative in recognising Aboriginal culture and heritage. Other ceremonies or practices may also be undertaken as considered appropriate by Aboriginal people, including dances and performances. However, as indicated above, a Welcome to Country should be incorporated into all Council major events.

## Australia Day

Council's Australia Day Celebrations are focused on celebrating Australian culture and society in the present multicultural context and promote the community moving forward together. It is in this light that all Australians are invited to participate.

Aboriginal people within the Bathurst Region may/may not choose to participate in Council organized Australia Day Celebrations, however Council should consult with the Aboriginal community to invite their participation and input to event planning, and their advice in relation to appropriate traditional areas of the land to perform ceremonies.

## **Appropriate Ceremonies**

Source: (Aboriginal Cultural Protocols and Practices Policy at [www.premier.s.nsw.gov.au](http://www.premier.s.nsw.gov.au)).

### **Welcome to Country**

The Welcome to Country ceremony should, where possible, be undertaken by traditional owners of the land, locally recognised Aboriginal community spokesperson or locally or a recognised cultural service provider.

There is no exact wording when Welcoming to Country. As such, the content of the ceremony should be negotiated between the agency and the provider with reference to the nature of the event and community practices. Generally, providers offer participants local Aboriginal history and cultural information and will go on to welcome the delegates to the country.

### ***Acknowledgement of Country***

An *Acknowledgement of Country* is a way that non-Aboriginal people can show respect for Aboriginal and Torres Strait Islander heritage and the ongoing



relationship of traditional owners with the land.

A Chair or Speaker begins the meeting by acknowledging that the meeting is taking place in the country of the traditional owners. On occasion, there may be disputes about who the traditional owners are. Those who acknowledge the country, can 'acknowledge *all* the traditional owners of the land' or can 'acknowledge the traditional owners of *this land*' without naming those people. Acknowledging Country in this way will not cause offence where there is some potential or actual dispute around ownership.

Typical Acknowledgement of Country statements can include:

- I would like to acknowledge that this meeting is being held on the traditional lands of the (appropriate group) people.
- I would like to acknowledge that this meeting is being held on Aboriginal land and recognise the strength, resilience and capacity of Aboriginal people in this land.

### **Smoking Ceremony**

Smoking ceremonies are conducted by Aboriginal people with specialised cultural knowledge. Smoking ceremonies should be performed by traditional owners of the land who hold this cultural knowledge or people nominated by the traditional land owners. The ceremony's purpose is to cleanse the space in which the ceremony takes place. Given the significant nature of the ceremony, smoking ceremonies are usually performed at major events.

### **Other Ceremonies**

As indicated previously, other ceremonies may be undertaken along with those outlined above. Agencies are encouraged to consult with local Aboriginal communities on the best form of recognition for each event the ceremony reflects the NSW Government's commitment to Reconciliation.

### **Fee for Service**

In providing cultural services, artistic performances and ceremonies Aboriginal people are using their intellectual property. As such providers of these services are entitled to remuneration. Payment can be negotiated between the cultural service provider and the agency.



<b>POLICY:</b>	PUBLIC ACCESS TO INFORMATION
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.1.1 Policy 3 July 2024 Resolution No. POL2024-23
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
	Director Corporate Services & Finance's Report #2 Policy 7 September 2011 Council 21 September 2011 Minute Book No 11192
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004 Council 8 December 2004 Minute Book No 9416
<b>FILE REFERENCE:</b>	11.00006, 11.00003, 11.00059
<b>OBJECTIVE:</b>	To describe Council's principles regarding public access to information and to facilitate the processing of requests for such access. This policy is to be read in conjunction with the Agency Information Guide.

### **Principles**

Council is committed to the following principles regarding public access to information and the processing of requests for information:

- open and transparent government
- proactive disclosure of information
- a presumption in favour of disclosure of information unless there is an overriding public interest against disclosure
- respect for the privacy of individuals.

### **How to Access Information**

Members of the public have the right to request access to the information we hold. We release information under the Government Information (Public Access) Act 2009 (the GIPA Act) and the Government Information (Public Access) Regulation 2009 (the GIPA Regulation).

#### 1. Information that is publicly available

Council's Agency Information Guide identifies the information that we make publicly available. We review our information periodically to determine if it can be proactively published.

Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation lists the information that is open access information that is required to be made publicly available.

This information is progressively published on our website or is made available upon request.

## 2. Informal request to access information

Most requests for information that has not been published on our website, can be satisfied on an informal basis. We will provide access to information, unless there is an overriding public interest against disclosure as defined by section 14 of the GIPA Act.

We do not charge an application fee, however we may charge processing fees for search time, photocopying and written responses in line with Council's Revenue Policy.

Examples of these types of documents include previous versions of financial statements, strategic plans, operational plans, annual reports and the like.

## 3. Formal request to access information

A formal application to access information will be required for information that may be commercially or legally sensitive, personal information or information that is restricted due to security concerns.

An application fee of \$30 is payable and a further charge for processing the application may also apply. We will assess requests for information in line with the GIPA Act and the Privacy and Personal Information Protection Act 1998.

Formal requests will be determined by our Right to Information Officer and a response will be provided within 20 working days. In line with the GIPA Act we may extend the decision time by up to 15 working days, where consultation with a third party is required or we need to retrieve an archived record.

## 4. Requests for information to be in writing

Applications for information can be made by completing our informal or formal application to access information forms, which can be found on our website via our 'access to our information' page or available at the Civic Centre.

## **Exemption To Access**

In considering what information may be restricted Council officers will consider Table 1 of Section 14 of the Government Information (Public Access) Act 2009. Under relevant legislation access to some documents and information held by Council may be restricted if the document or part thereof contains the following types of information:

- Personnel matters concerning particular individuals (other than Councillors);
- The personal hardship of any resident or ratepayer;
- Trade secrets;
- A matter the disclosure of which may:
  - be contrary to law, or
  - give rise to action for breach of confidence;
- That part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA of the Local Government Act 1993; or
- Documents which were submitted to or are to be submitted to a 'Closed Session' of a Council or Committee Meeting (as delivered by S10(2) of the Local Government Act).

Access to some documents may be considered to be contrary to the public interest under the GIPA Act 2009 and may require lodgment of a formal GIPA Application and third party consultation. These documents include:

- Legal advice\*;
- Personnel (individual staff) matters;
- Complaints;
- Individual's details on DA submissions where they claim personal safety issues;
- Council Lease documents;

- Council Contracts;
- Council Tenders; and
- Insurance claims.

\* Legal professional privilege may apply to communications between Council and its legal advisers for the purpose of obtaining legal advice, or third parties for the purpose of obtaining legal advice relating to pending or threatened legal action by or against Council. If so, it is not normally available to be inspected or copied.

### **Review rights**

If we refuse access to information under a formal application, we will provide details of the reason(s) for refusal in writing. There are 3 options to review our decision:

1. an internal review by a senior person in Council. This request will review the decision to reject or limit the access to information. Applicants have 20 working days from received notice of a decision to ask for this review and has a prescribed GIPA \$40 fee.
2. an external review by the Information Commissioner. If applicants are not satisfied with the internal review, or do not want one, they can apply to the Information Commissioner. Applicants have 40 working days from receiving notice of a decision to ask for this review
3. a review by the NSW Civil and Administrative Tribunal (NCAT). Applicants have 20 days from the date of notification from the Information Commissioner or 40 days from the date of the original decision to ask for this review.

### **Amending Personal Detail Records**

Under the NSW Privacy and Personal Information Protection Act (PPIPA) 1998 and the Health Records and Information Privacy Act (HRIPA) 2002, an individual also has a right to access and amend records held by Council which contain their personal details, matters related to their business affairs and any records containing information about their health. Where information about an individual is held in documents, files or systems that include information about other persons, any request should be made under the GIPA Act. The Act provides for consultation with other affected parties prior to disclosure of information concerning their personal or business affairs.

<b>POLICY:</b>	PUBLIC INTEREST DISCLOSURES (PROTECTED DISCLOSURES)
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.3.5 Council 19 July 2023 Resolution No. ORD2023-196
	Director Corporate Services & Finance’s Report #8.3.5 Council 15 March 2023 Resolution No. ORD2023-53
	General Managers Report #1 Policy 3 July 2013 Council 17 July 2013 Minute Book No. 11589
	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC and Evans Policies)
<b>FILE REFERENCE:</b>	11.00039, 11.00006
<b>OBJECTIVE:</b>	<p>The aim of this policy is to establish guidelines to facilitate the introduction of an effective internal reporting system, which enables Council to acknowledge and act upon reports of <i>corruption, maladministration</i> and <i>serious and substantial waste</i>. These guidelines are to serve as Council’s internal system for the purpose of the Public Interest Disclosures Act 1994. The Public Interest Disclosures Act 1994 aims to encourage and facilitate disclosures – in the public interest – by:</p> <ul style="list-style-type: none"> <li>• enhancing and augmenting established procedures for making disclosures,</li> <li>• protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures, and</li> <li>• providing for those disclosures to be properly investigated and dealt with.</li> </ul>

## 1. **PURPOSE AND CONTEXT OF THE POLICY**

The purpose of this policy is to establish an internal reporting system for staff and councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Bathurst Regional Council, what can be reported and how reports of wrongdoing will be dealt with by Bathurst Regional Council.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the *Public Interest Disclosures Act 1994* (PID Act).

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through Council's *Dispute and Grievance Resolution Policy*. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to *Human Resources* to be dealt with in accordance with the *Dispute and Grievance Resolution Policy*.

## 2. **Organisational commitment**

Bathurst Regional Council is strongly committed to creating a culture where reports of wrongdoing can be dealt with effectively. The aims of this policy are to:

- create a climate of trust, where people are comfortable and confident about reporting wrongdoing
- encourage staff to come forward if they are aware of wrongdoing within the Council
- keep the identity of the staff member disclosing wrongdoing confidential, where this is possible and appropriate
- protect staff from any adverse action resulting from them making a report
- deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to address it
- keep staff who make a report informed of their progress and the outcome
- encourage the reporting of wrongdoing within the Council, but respect any decision to disclose wrongdoing outside the Council that is made in accordance with the provisions of the PID Act
- ensure managers and supervisors at all levels in the Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- review the policy periodically to ensure it is relevant and effective
- provide adequate resources, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training for staff about how to make reports and the benefits of internal reports to the council and the public interest generally
  - properly assess and investigate or otherwise deal with allegations

- properly manage any workplace issues that the allegations identify or that result from a report
- appropriately address any identified problems.

Under the PID Act, the General Manager as the head of the public authority is responsible for ensuring that:

- Council has an internal reporting policy
- the staff of the Council and councillors are aware of the contents of the Policy and the protection under the PID Act for people who make public interest disclosures
- Council complies with the Policy and Council's obligations under the PID Act
- the Policy delegates at least one staff member as being responsible for receiving public interest disclosures. Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be a disclosures coordinator. The Ombudsman recommends councils nominate more than one person as being responsible for receiving public interest disclosures.

### **3. Who does this policy apply to?**

This policy will apply to:

- both council staff and councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Bathurst Regional Council
- employees of contractors providing services to Bathurst Regional Council
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another council or public authority who report wrongdoing relating to Bathurst Regional Council.

### **4. Roles and responsibilities**

#### **a. The role of council staff and councillors**

Staff and councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality



- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports.
- Staff and councillors must not:
- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all council staff and councillors involved in the internal reporting process must adhere to the Bathurst Regional Council's code of conduct. A breach of the Code may result in disciplinary action.

#### **b. The role of the Bathurst Regional Council**

The Bathurst Regional Council has a responsibility to establish and maintain a working environment that encourages staff and councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

The Bathurst Regional Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, the Bathurst Regional Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. The Bathurst Regional Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

The Bathurst Regional Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.

To ensure the Bathurst Regional Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

#### **c. Roles of key positions**

##### General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Bathurst Regional Council complies with the PID Act. The General Manager can receive reports from staff and councillors and has a responsibility to:

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under Council's code of conduct in accordance with Council's adopted code of conduct procedures
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report

- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### Disclosures Coordinator

The Disclosures Coordinator has a central role in the Bathurst Regional Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Bathurst Regional Council for the reporter. The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under Council's code of conduct in accordance with Council's adopted code of conduct procedures
- coordinate the Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure the complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

### Disclosures officers

Disclosures officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors to make reports.

Disclosures officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace conflict

- carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

### Mayor

The Mayor can receive reports from staff and councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under Council's code of conduct in accordance with Council's adopted code of conduct procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### Supervisors and line managers

Supervisors and line managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and line managers should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
- implement local management strategies, in consultation with the disclosures coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the disclosures coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

## **5. What should be reported?**

You should report any suspected wrongdoing within the Council, or any activities or incidents you see within the Council that you believe are wrong.

Reports about the five categories of serious misconduct:

- Corrupt conduct,
- Maladministration,

- Serious and substantial waste of public money,
- Breach of the GIPA Act, and
- Local government pecuniary interest contravention,

which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID ACT and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's *Guideline B2: What should be reported?*

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

Council has the following Policies which deal with staff matters:

- Dispute and Grievance Resolution
- Procedural Fairness

#### **a. Corrupt conduct**

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.

#### **b. Maladministration**

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application.

### c. **Serious and substantial waste of public money**

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds.

### d. **Breach of the GIPA Act**

A breach of the *Government Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under that Act.

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

### e. **Local government pecuniary interest contravention**

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at council and council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- a councillor participating in consideration of a Development Application for a property they or their family have an interest in.

## 6. **Assessment of reports**

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Coordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

## 7. When will a report be treated as a public interest disclosure?

Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this Policy (see section 8), an investigating authority or in limited circumstances to an Member of Parliament (MP) or journalist (see section 9).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy (see section 17)
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18).

## 8. Who can receive a report within Bathurst Regional Council?

Staff are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this Policy or any supporting procedures.

The following positions are the only people within Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

If your report involves a councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

Position Title	Name	Contact Details
General Manager	Mr David Sherley	<a href="mailto:david.sherley@bathurst.nsw.gov.au">david.sherley@bathurst.nsw.gov.au</a> 02 6333 6205
Mayor (for reports about the General Manager only)	Cr Robert Taylor	<a href="mailto:mayor@bathurst.nsw.gov.au">mayor@bathurst.nsw.gov.au</a> 02 6333 6205
Disclosures Coordinator	Mr Nicholas Murphy	<a href="mailto:nicholas.murphy@bathurst.nsw.gov.au">nicholas.murphy@bathurst.nsw.gov.au</a> 02 6333 6209
Disclosures Officers	See Schedule A	

Bathurst Regional Council's current Disclosures Officers are listed in Schedule A. 'Nominated Disclosures Officers' – attached. The Manager of Corporate Governance is

authorised to update Schedule A as required. 'Nominated Disclosures Officers' as required to reflect staffing changes and the inclusion of further Disclosures Officers.

## 9. **Who can receive a report outside of the Bathurst Regional Council?**

Staff and councillors are encouraged to report wrongdoing within the Council, but internal reporting is not your only option. You can also make a public interest disclosure to:

### a. **An investigating authority.**

The PID Act lists a number of investigating authorities in NSW that staff and councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor.

The relevant investigating authorities for the Bathurst Regional Council are:

<b>Organisation</b>	<b>Relating to disclosures about:</b>
Independent Commission Against Corruption (ICAC)	corrupt conduct
NSW Ombudsman	maladministration
Information Commissioner	a breach of the GIPA Act
Office of Local Government	local councils

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this Policy.

You should be aware that the investigating authority may well discuss any such reports with the Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff or councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

### b. **Other external reporting**

If you report wrongdoing to a person or authority that is not listed above, or make a report to an Member of Parliament (MP) or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this Policy.

## 10. **How to make a report**

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. Council's Internal Reporting Form which is included in this Policy is also available for staff or councillors to use to make a report, or on Council's intranet.

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

## **11. Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

## **12. Feedback to staff who report wrongdoing**

Staff and councillors who report wrongdoing will be told what is happening in response to their report.

### **a. Acknowledgement**

When you make a report, Council will contact you to confirm that your report has been received and to advise:

- the timeframe within which you will receive further updates
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, Council will send you an acknowledgment letter, providing:

- information about the action that will be taken in response to your report
- the likely timeframes for any investigation or other action
- information about the internal and external resources or services available that you can access for support.

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this policy.

### **b. Progress updates**

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:



- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

### **c. Feedback**

Once the matter has been finalised you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

## **13. Maintaining confidentiality**

Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

## **14. Managing the risk of reprisal and workplace conflict**

When a staff member or councillor reports wrongdoing, Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace

- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

## **15. Protection against reprisals**

Council will not tolerate any reprisal against staff or councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of Council's code of conduct which may result in disciplinary action. In the case of councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where the Council has reasonable grounds to take such action.

### **d. Responding to allegations of reprisal**

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such

allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the council's code of conduct (reprisal action) by a councillor or the General Manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

#### **e. Protection against legal action**

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

### **16. Support for those reporting wrongdoing**

Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the disclosures coordinator.

Council offers an Employee Assistance Program and details can be sourced from your Manager, the intranet or Council's Human Resources Department.

## 17. **Sanctions for making false or misleading statements**

It is important all staff and councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support staff or councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the code of conduct resulting in disciplinary action. In the case of councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

## 18. **The rights of persons the subject of a report**

Council is committed to ensuring staff or councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

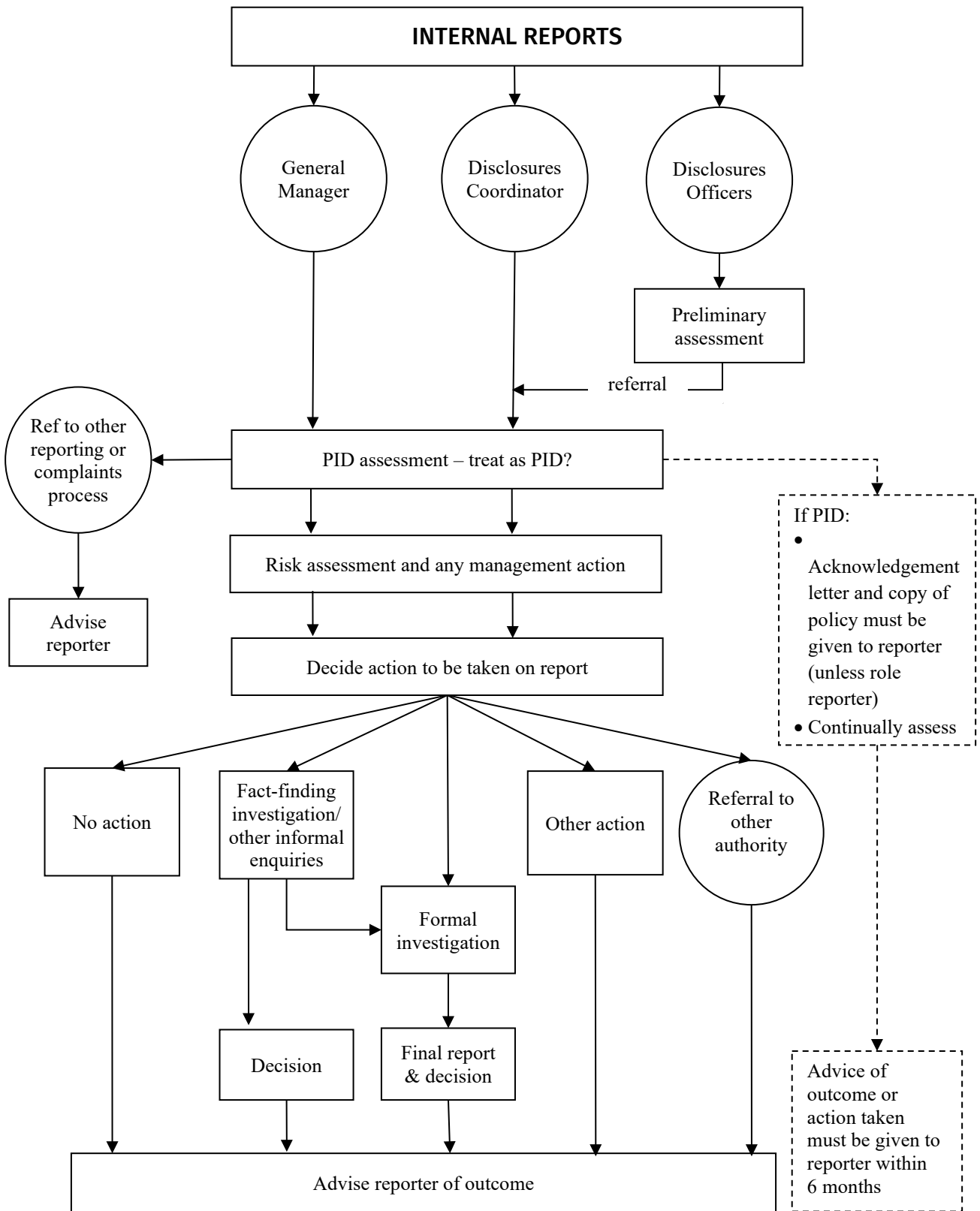
## 19. **Review**

This policy will be reviewed by the Council every two years.

## 20. **More information**

More information around public interest disclosures is available on our intranet. Staff can also seek advice and guidance from the disclosures coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

21. **Flow chart of internal reporting process**



## 22. Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:  
 Independent Commission Against  
 Corruption (ICAC)  
 Phone: 02 8281 5999  
 Toll free: 1800 463 909  
 Tel. typewriter (TTY): 02 8281 5773  
 Facsimile: 02 9264 5364  
 Email: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)  
 Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
 Address: Level 7, 255 Elizabeth Street,  
 Sydney NSW 2000

For disclosures about breaches of the  
 GIPA Act:  
 Information & Privacy Commissioner  
 Toll free: 1800 472 679  
 Facsimile: 02 8114 3756  
 Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
 Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
 Address: Level 17, 201 Elizabeth Street,  
 Sydney NSW 2000

For disclosures about maladministration:  
 NSW Ombudsman  
 Phone: 02 9286 1000  
 Toll free (outside Sydney metro): 1800 451  
 524  
 Tel. typewriter (TTY): 02 9264 8050  
 Facsimile: 02 9283 2911  
 Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
 Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
 Address: Level 24, 580 George Street,  
 Sydney NSW 2000

For disclosures about local councils:  
 Office of Local Government  
 Phone: 02 4428 4100  
 Tel. typewriter (TTY): 02 4428 4209  
 Facsimile: 02 4428 4199  
 Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
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 2541

FORM

## SCHEDULE A

Nominated Disclosures Officers	
Position	Work Location
Civic Centre	
Manager Financial Services	Civic Centre
Manager Information Services	Civic Centre
Manager Works	Civic Centre
Manager Technical Services	Civic Centre
Manager Water & Waste	Civic Centre
Manager Recreation	Civic Centre
Manager Water & Sewer	Civic Centre
Parks Operations Manager	Civic Centre
Manager Strategic Planning	Civic Centre
Manager Development Assessment	Civic Centre
Manager Economic Development	Civic Centre
Manager Events	Civic Centre
Manager Corporate Communications	Civic Centre
Manager Community Services	Civic Centre
Children's Services Team Leader	Civic Centre
Manager Corporate Governance	Civic Centre
Level 3, Post Office	
Manager Human Resources	Level 3, Post Office
Manager Environment	Level 3, Post Office
Peel Street Depot	
Rural Works Manager	Peel Street Depot
City Works Manager	Peel Street Depot
Workshop Manager	Peel Street Depot
Plant Coordinator	Peel Street Depot
Bathurst Memorial Entertainment Centre	
Manager BMEC	BMEC
Bathurst Library	
Manager Library Services	Library
Bathurst Regional Art Gallery	
Art Gallery Director	Bathurst Regional Art Gallery
Sallywags Childcare Centre	
Children's Services Co-Ordinator	Sallywags Childcare Centre
Bathurst Visitor Information Centre	
Manager Tourism and Visitor Services	Bathurst Visitor Information Centre
Central Tablelands Collections Facility	
Manager Museums Unit	Central Tablelands Collections Facility

<b>POLICY:</b>	PUBLIC WI-FI ACCEPTABLE USE POLICY
<b>DATE ADOPTED:</b>	
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 5 September 2018 Council 19 September 2018 Minute Book No. 12830
<b>FILE REFERENCE:</b>	20.00315
<b>OBJECTIVE:</b>	To establish conditions of use for Council's public Wi-Fi system.

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### 1. **PURPOSE**

The purpose of the Public Wi-Fi Acceptable Use Policy ("Policy") is to ensure that users of Bathurst Regional Council's Public Wi-Fi facility ("Public Wi-Fi Service") understand that:

- By accessing or using Bathurst Regional Council's Public Wi-Fi Service, users agree to the terms and conditions of this 'Public Wi-Fi Acceptable Use Policy' without limitations, and accordingly users should read this Policy carefully before connecting;
- This Policy may be updated by Bathurst Regional Council from time to time.
- Use of the Public Wi-Fi Service is subject to the terms and conditions of this Policy as they exist when the user accessed the Public Wi-Fi Service; and
- If an individual does not agree to these terms and conditions then they must not access or use the Public Wi-Fi Service.

### 2. **SCOPE**

This policy applies to all users of the Public Wi-Fi Service.

### 3. **CONTEXT**

Bathurst Regional Council continues to adopt new technologies to align with Council's business plans and provision of services to community. To align with Council's digital strategy and Smart City plans, Council provides a free Internet service through Wi-Fi in a number of locations within Bathurst. This digital initiative from Council helps to improve the visitor experience and also enhance internet availability for local residents in public areas.

Bathurst Regional Council will take reasonable action to endeavour to provide reliable, secure and stable access to the Public Wi-Fi Service, but cannot guarantee that the Public Wi-Fi Service will be available, un-interrupted, fault-free, secure or otherwise suitable for its intended purpose.

Council encourages users to save your work regularly while using the Public Wi-Fi Service, and take precautions to prevent loss of information.



Users are responsible for setting up their own equipment to access the Public Wi-Fi Service. Council staff will not provide technical assistance and will not assume any responsibility for personal hardware configurations, security or changes to data files resulting from connecting to the Public Wi-Fi Service. It is recommended that users make a backup copy of any settings before configuring their equipment on the Public Wi-Fi Service.

To the extent permitted by law, Bathurst Regional Council is not under any liability in respect to any loss or damage to any person or property whether direct, indirect, incidental, exemplary or consequential (including, but not limited to, loss of data, use, profits, interruption, or safety of equipment) however caused arising in any way out of the use of the Public Wi-Fi Service, even if advised of the possibility of such damage.

The Public Wi-Fi Service is currently free of charge however Bathurst Regional Council reserves the right to charge for this service in the future.

## **4. POLICY**

### **4.1. Accessing the Public Wi-Fi Service**

To use the Bathurst Regional Council Public Wi-Fi Service users must:

- Connect to the Wi-Fi hotspot using a wireless enabled device, and
- Read the terms and conditions that apply, and
- Accept those terms and conditions.

Council reserves the right to impose daily time and or data restrictions on the use of the Public Wi-Fi Service. If/when a user's session expires the user will automatically be logged out of the Public Wi-Fi Service.

### **4.2. Non-Compliance**

At any time, Bathurst Regional Council, may refuse access to any individual. Individuals not complying with this Policy may be subject to loss of access without warning. Bathurst Regional Council will determine when the individual may be granted renewed access.

Where a breach of this policy is reasonably suspected by Bathurst Regional Council to involve criminal action or otherwise placing any person or property in danger, Bathurst Regional Council may refer the matter to the police or to other authorities or agencies for investigation.

### **4.3. Reliability**

The Public Wi-Fi Service is not suitable for supporting any application or use which requires continuous, fault-free or secure network connectivity, or uninterrupted data traffic flow. Bathurst Regional Council will not be liable if access to the Public Wi-Fi Service becomes unstable, unsecured, slow, unreliable or unavailable for any reason whatsoever. Users in the process of downloading a file should be aware that should the user lose connection to the Public Wi-Fi Service, any partially downloaded file will likely be lost. Bathurst Regional Council encourages users to save your work regularly while using the Public Wi-Fi Service, and take precautions to prevent loss of information.

Bathurst Regional Council will take reasonable steps to monitor and attend to any faults, malfunctions or other problems associated with the Public Wi-Fi Service, but will not be liable

if such faults, malfunctions or problems occur, and shall not be obligated to rectify any such faults within any specified timeframes.

Bathurst Regional Council may suspend or withdraw the Public Wi-Fi Service at any time and without prior notice should it decide to do so.

#### **4.4. Security**

Bathurst Regional Council will take reasonable action to provide secure access to the Public Wi-Fi Service. However, due to the nature of Wi-Fi Bathurst Regional Council cannot guarantee the security of a user's connection to the Public Wi-Fi Service. Please be aware that there is a risk of third parties gaining un-authorised access to a user's device or data through the Public Wi-Fi Service.

#### **4.5. Private and Sensitive Data**

Users are solely responsible for any information or data uploaded, downloaded or otherwise communicated using the Public Wi-Fi Service, and are responsible for keeping all user names, passwords and other security-based information secure and private at all times.

#### **4.6. User Obligations**

Users of the Bathurst Wi-Fi Service are liable for any kind of loss or damage incurred directly or indirectly as a result of their use of the Public Wi-Fi Service. It is strongly recommended that users install a personal antivirus and firewall on their wireless enabled device to block unwanted traffic and potentially malicious files.

#### **4.7. Blacklisted Websites**

Bathurst Regional Council may, at its discretion, block access to certain websites and services as they may create a hostile environment for others in the surrounding space. This includes but is not limited to websites and/or services that may:

- be used to harass or attempt to harass other people
- promote conduct that is abusive, threatening, obscene, defamatory or libellous,
- promote any criminal activity or enterprise, or provide instructional information about illegal activities

#### **4.8. Prohibited Use**

Users must not use the Public Wi-Fi Service to:

- engage in (or attempt to engage in) any illegal act;
- unlawfully interfere with any communication network or computer system;
- disrupt the use of the Public Wi-Fi Service by any other person;
- send spam emails;
- send unsolicited advertising;
- use software or applications that may assist in breaching this Policy.

When connected to the Public Wi-Fi System you must not access websites and/or internet services that:

- may obviously contain any viruses, malware or other computer programming routines that may damage, modify, delete, detrimentally interfere with, or access without authority any Bathurst Regional Council system, data or personal information
- may provide access to, create, store, distribute or display illegal text, graphics, audio or video
- may be used to harass or attempt to harass other people
- may promote racism, bigotry, hatred, discrimination or physical harm of any kind against any group or individual
- may promote conduct that is abusive, threatening, obscene, defamatory or libellous,
- may further or promote any criminal activity or enterprise, or provide instructional information about illegal activities.

#### **4.9. Privacy**

Bathurst Regional Council reserves the right to collect personal information about you in relation to your access to and use of the Public Wi-Fi Service. The following information is collected:

- your email address
- your device's MAC and IP address
- the addresses of the websites and webpages you visit while you are connected to the Public Wi-Fi Service
- the date and time when you accessed the Public Wi-Fi System; and
- any other personal information that may be reasonably required to establish the identity of the person using a device connected to the Public Wi-Fi Service.

Any information collected will be done so in accordance with the Privacy and Personal Information Protection Act 1998 (NSW) and Regulation.

Bathurst Regional Council collects users' browser history during their time using the free public Wi-Fi Service for the purpose of verifying that users' use of the Public Wi-Fi Service complies with this policy. Council's response to external requests from law enforcement or integrity agencies for access to data about persons using the Public Wi-Fi System will be overseen by Council's General Manager.

#### **4.10. Disclosure and Publication of Personal Information**

Bathurst Regional Council will not disclose users personal information for any purpose, but may disclose personal information to Council's technology providers, police and other law enforcement agencies where relevant in connection to:

1. the investigation of a potential crime, or otherwise in connection with a breach or suspected breach of this Policy
2. a court or tribunal order for production of documents or information
3. Australian law (for example, disclosure under the Government Information (Public Access) Act 2009 (NSW) and Regulation).

#### **4.11. Accessing Personal Information**

Bathurst Regional Council's Privacy Management Plan contains information about how users may access personal information about themselves that is held by Bathurst Regional Council, and seek correction of such information.

## 5. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for administrative changes to this Policy. Where an update does not materially alter this Policy, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this Policy will be by resolution of Council.

## 6. REVIEW

The next review of this Policy is scheduled for completion by 30 June 2021.

## 7. DEFINITIONS

### Key terms

Key Term	Definition
Access	The ability to view or modify data.
Access control	The rules and mechanisms that control access to information systems.
Anti-virus	Software specially designed to detect and eliminate viruses and 'malware' before they cause harm.
Auditing	The process of capturing user activity and other events on the system, storing this information and producing system activity reports.
Audit Trail	A log file that provides the date and time stamped record of the usage of a system. An audit log can record what a computer was used for, allowing a systems administrator to monitor the actions of every user and can assist in determining if a security violation has occurred.
Availability	The assurance of the accessibility of systems and information to authorised users; when they require it.
Council	means Bathurst Regional Council, being a body politic constituted as a local Council under the Local Government Act 1993 (NSW) and includes Councillors and Council Officers.
Councillors	means the individuals holding the office of a Councillor of Bathurst Regional Council
Council Officers	means the General Manager and staff of Council.
Firewall	A combination of hardware and software that provides security to a network. Generally used to prevent unauthorised access from external networks to an internal network.
Internet	A global network connecting millions of computers.
IP Address	The numeric address (i.e., 203.18.49.193) that identifies an entity on the Internet (for example, computer, server, network device, etc) that guides all Internet traffic, such as email and Web traffic, to its destination.
User	Any person connecting to Bathurst Regional Council Public Wi-Fi service after acceptance of the Public Wi-Fi terms and conditions.
Password	A string of characters entered by a user to verify their identity to a network or application.

Policy	The rules and practices that regulate how an organisation manages and protects its information systems infrastructure.
Privacy	At a corporate level, the need to keep data confidential while in transit and in storage. At an individual level, it is the control a person has over the collection, use, and distribution of his or her personal information.

**Linked Bathurst Regional Council policies or guidelines:**

BRC Privacy Management Plan 2013

[https://www.bathurst.nsw.gov.au/images/stories/council/public\\_docs/privacy\\_management.pdf](https://www.bathurst.nsw.gov.au/images/stories/council/public_docs/privacy_management.pdf)

<b>POLICY:</b>	PURCHASING - ACQUISITION OF GOODS AND SERVICES
<b>DATE ADOPTED:</b>	General Manager's Report #6.1.8 Extraordinary Council Meeting 19 January 2022 Resolution No: ORD2022-9 Council Meeting 2 February 2022 Resolution No: ORD2022-21  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	15.00008
<b>OBJECTIVE:</b>	To define a policy for inviting Tenders and Contracts for Council works, services and or goods which complies with the Local Government Act 1993, and establish procedures for tenders above and below \$250,000.

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That Council when inviting tenders for the carrying out of work, or the supply of goods and services on behalf of Bathurst Regional Council will have regard to the following principles:

1. Open and effective competition
2. Value for money
3. Environmental Impacts
4. Ethical behaviour and fair dealing
5. Accountability and observance of the Local Government Act and regulations, together with other related statutory requirements and standards.

For Tenders and Contracts for amounts above \$250,000 procedures in accordance with the Local Government Act and Regulation will be followed.

For tenders and contracts below \$250,000 procedures in accordance with Council's delegation of authority to the General Manager and the Council Purchasing Manual.

That where appropriate, and in consideration of the Trade Practices Act and National Competition requirements, a preference of 5% on product cost will be given to suppliers based in the Bathurst Local Government Area as criteria assessment on submission of a tender.

Council will process the calling of tenders, opening of tenders, assessment of tenders and reporting to Council in line with the Purchasing Manual.

Council will include in its annual Conditions of Tendering that the lobbying or liaison with Councillors prior to the consideration of a tender by Council will lead to the rejection of the tender.

### 3.14. R



<b>POLICY:</b>	RATES – ACCUMULATION OF RATES BY AGED PENSIONERS & REBATES
<b>DATE ADOPTED:</b>	Director Corporation Services & Finance’s Report #9.3.5 Council 21 July 2021 Resolution No ORD2021-252 Council 18 August 2021 Resolution No ORD2021-277  Director Corporate Services & Finance’s Report #14 Council 15 June 2016 Minute Book No. 12286
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	16.00037
<b>OBJECTIVE:</b>	To assist aged pensioners in the city through allowing rates to accumulate on properties and the provision of rebates.

### **ACCUMULATION OF RATES BY AGED PENSIONERS**

Where, in the case of an aged pensioner who elects to do so, Council shall allow unpaid rates to accumulate and be paid from the estate of such aged pensioner or from the sale of the house provided that in such cases no Council rate rebate shall be granted.

### **RATES – PENSIONER CONCESSION REBATES**

Council allow an additional reduction in the rates payable by eligible pensioners who are responsible for payment of rates on a dwelling or home unit. In order to be eligible persons must be in receipt of a "full pension" as defined by the State Government.

These classes of pensions include Aged, Invalid, Civilian Widows, Service, TPI, War Widows, Deserted Wives, Supporting Parents.

Pensioner rate reductions be allowed in respect of current year’s rates only, where there is conclusive proof that the person did in fact permanently reside in the subject premises at the relevant time.

Applicants are required to occupy the dwelling or home unit concerned as their sole or principal place of residence.

The concessions which will be allowed are subject to certain conditions but may be up to:

- (a) General Rate No Council concession granted
- (b) Water Rate Council concession 50% of the rate to a maximum of \$40.00

- (c) Sewerage Rate Council concession 50% of the rate to a maximum of \$40.00
- (d) Domestic Waste with a Food and Garden Waste Service provided - \$49.00

Those pensioners in receipt of a partial pension will not be eligible to receive the benefit of a Council concession.

<b>POLICY:</b>	RATES – DISCONNECTION OF CONSUMERS FOR NON-PAYMENT OF WATER ACCOUNTS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	16.00015
<b>OBJECTIVE:</b>	To establish procedures for the non-payment of water accounts

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Any properties with water accounts outstanding and where appropriate debt recovery measures have failed, will have their water supply downgraded by the insertion of a suitable obstruction at the property’s point of connection to Council’s supply. Full supply will be restored upon suitable arrangements being made to pay all outstanding Water Accounts.

<b>POLICY:</b>	RATES – RECOVERY OF RATES AND CHARGES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.3.5 Council 22 September 2021 Resolution No ORD2021-330 Council 20 October 2021 Resolution No ORD2021-349
	Director Corporate Services & Finance Report #1 Policy 2 September 2015 Council 16 September 2015 Minute Book No: 12097

**ORIGINAL ADOPTION:**

**FILE REFERENCE:** 16.00015

**OBJECTIVE:** The efficient and effective collection of outstanding rates and charges whilst complying with statutory requirements of the Local Government Act, 1993.

**ISSUE OF ORIGINAL RATE NOTICE**

Under Section 252 (3) (b) of the Local Government Act 1993, rates and charges are due on a quarterly basis. The due dates for each quarter are 31 August, 30 November, 28 February and 31 May each year. A ratepayer may approach Council and seek an arrangement to finalise the rate account. Recovery action will only apply to those ratepayers who have not made arrangements to finalise their rates, or who have defaulted on an existing arrangement. Council’s policy has also been to exclude aged pensioners from any legal action as per the current Policy – Accumulation of Rates by Aged Pensioners & Rebates.

**PROCEDURE**

- (1) One week after instalment due date Council will issue a Missed Instalment Notice as per Section 562 (5) if the Local Government Act 1993.
- (2) Issue a letter of Debt Demand with the current quarter rates owing and/or arrears with a combined total greater than \$300.00 notifying that failure to make full payment or a suitable arrangement within 7 days may result in further recovery action.
- (3) If there is no response to the correspondence above, a final demand letter from Council’s external debt recovery agent will be issued stating unless payment is received in full or a suitable arrangement made, legal action will be commenced with associated legal costs added to the outstanding amount. Following the commencement of legal action a judgement may be obtained against the ratepayer and this will affect their personal credit record for 5 years.
- (4) Recovery action by Council’s Debt Recovery Agency to recover outstanding debts that will be considered may include, but not limited to:
  - Statement of Liquidated Claim (Summons)
  - Judgement
  - Writ of Execution

- Garnishee against the debtors salary or bank account
- Examination Summons
- Rent for Rates
- Sale of land for unpaid rates in accordance with Section 713 of the Local Government Act 1993.
- The Winding up of a Company
- Bankruptcy.

Arrangement for payment of Rates may be accepted after legal action has commenced, subject to the continuation of legal action should the ratepayer not adhere to the approved arrangement.

Section 712 (1) of the Local Government Act 1993 provides that proceedings for the recovery of a rate or charge may be commenced at any time within 20 years from the date when the rate or charge become due and payable.

All legal costs and expenses incurred in recovering outstanding rates and charges shall be charged against the property in accordance with Section 605 of the Local Government Act 1993.

POLICY:	RECORDS AND INFORMATION MANAGEMENT
DATE ADOPTED:	Director Corporate Services & Finance's Report #8.2.1 Policy 3 April 2024 Resolution No. POL2024-9
	Director Corporate Services & Finance's Report #8.2.5 Council 18 August 2021 Resolution No. ORD2021/293 Council 15 September 2021 Resolution No. ORD2021/312
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
ORIGINAL ADOPTION:	Director Corporate Services & Finance's Report #1 Policy 6 April 2005, Council 20 April 2005 Minute Book No. 9518
FILE REFERENCE:	03.00038, 11.00039
OBJECTIVE:	The Policy establishes the governance framework for the creation, capture, control, use, maintenance, and disposal of records within Bathurst Regional Council.

## 1.0 Introduction

An information and recordkeeping program is fundamental to the Council's commitment to transparency and accountability. It enables Council to account for decisions and actions by providing essential evidence in the form of records and ensures trust and collaboration across all Council's business processes.

Council strives to deliver a high-quality recordkeeping service independent of the technology being used or the medium the record is in. This policy seeks to ensure that Council's information and records, wherever possible, are managed digitally.

### 1.1 Policy Objectives

The objectives of this policy are to:

- Ensure Council information and records remain accurate, current, and accessible.
- Support our ongoing business activity and customer services.
- Meet legislative requirements and community expectations to manage records efficiently and effectively.
- Store records cost effectively and when no longer required disposed of them in accordance with approved disposal authorities.
- Ensure that records of longer-term value are identified and protected for historical and other research.
- Provide the framework for Council's information management guidelines and procedural material and clearly identifies the responsibilities and accountabilities for recordkeeping.

- Maintain digital and other technology dependent records in an accessible format for as long as they are required.
- Comply with applicable State and Commonwealth legislation and International Standards.

## 1.2 Policy Scope

This policy applies to:

- a) Providing the overarching framework for all corporate recordkeeping policies, practices, and procedures.
- b) Councillors and staff at Council and the information and records they deal with
- c) Anyone performing work on Council's behalf including casuals, volunteers, contractors, and consultants.
- d) Any information or corporate record in any format, created, received, or maintained by Council.
- e) Management of Council's records, in all formats and maintained on different media including hardcopy and electronic, created or received by Council in support of its business, activities and transactions.

## 2.0 Recordkeeping principles

### 2.1 Digital Records Management

Council has a legal obligation to manage its records and must be able to account for its actions and expenditure of resources. Information is a key Council asset and needs to be managed well to realise its value.

Digital management of records enables Council to make the best use of new technologies and innovative ways of doing business. It enables Council to implement information reforms more efficiently and effectively.

### 2.2 Creation and capture

Records are created every time someone in Council writes an email, drafts a brief, writes a report or records minutes, adds data to a spreadsheet or takes a photo. This information is created as part of a specific business process and needs to be managed so that it can be searched, shared, reused, and repurposed, increasing its value to Council. Records need to contain specific information to make them complete, accurate and reliable.

The information needs to reflect:

- What happened, the order of events.
- What was decided or recommended.
- What advice or instruction was given.
- When it happened and who was involved.

### 2.3 Access to Council Records

Council requires open access to information and records unless the record itself requires protection. Protecting our information and records is governed by:

- Council's Access to Information Policy
- Access to Information Guidelines for Local Government
- Privacy and Personal Information Protection Act 1998
- Government Information (Public Access) Act (GIPPA) 2009.

Many Council records are public documents and must be managed to provide easy access by our community.

### 2.4 Records Security

Records should be stored within approved recordkeeping systems to prevent unauthorized access, destruction, alteration, or removal. Council's approved recordkeeping systems have a full audit log, have security, and are managed and monitored.

Council records must be stored only in Council's official recordkeeping systems – for example Content Manager, Authority and Customer Response Management System

All staff must ensure they lock their computer prior to leaving their desk to ensure information and records are secure.

### 2.5 Disposal and Destruction of Records

General staff cannot destroy or dispose of Council records. Only Records staff may destroy or dispose of Council records following strict procedures and with the final approval of the General Manager.

Records can only be destroyed in accordance with:

- The General Disposal Authorities
- Council specific Disposal Authorities. Alternatively, State Records must be transferred to State Archives for permanent retention.

Council records must be protected, maintained and accessible for their total retention period and must be disposed of in accordance with the State Records Act 1998 and Council's disposal procedures.

Information and records, which staff deem as ephemeral, may be destroyed using a procedure called 'Normal Administrative Practice (NAP)'. This practice usually occurs because the records are duplicated, unimportant or for short-term use only. General staff do not have permission to delete information and records under NAP and all items deleted under NAP are undertaken by approved officers only.

### 2.6 Value of Records as a corporate asset

The records of are an essential resource for information as they:

- Are a vital asset which Council can use to make future decisions.
- Are crucial to continuous improvement, providing a baseline for change.
- Are the major component of the Council's corporate memory and knowledge and provide evidence of business transactions and decisions.
- Exist for a variety of administrative, functional, historical, and legal reasons.
- Support policy formulation and consistent and equitable decision making.
- Facilitate the effective performance of activities through an organisation.
- Provide continuity in the event of a disaster.
- Provide protection and support in litigation including the management of risks associated with the existence of or lack of evidence of organisational activity.
- Protect the interests of the organisation and the rights of employees, clients, and present and future stakeholders.



## 3.0 Policy implementation

### 3.1 Policy responsibilities

#### General Manager

- Responsible for ensuring Council's compliance with the regulations and requirements of relevant legislation and standards.

#### Manager Corporate Governance

- Accountable to the General Manager for the implementation of the Information and Records Strategy to ensure continued management of all Council records.

#### Records Team

- Responsible for the protection, safe custody, and management of all records, ensuring continued accessibility. Ensures the Information and Records Training and Education Program targets skills to support compliance with the Information & Records Management Strategy. Ensures that no records are destroyed except as authorised by the Retention and Disposal Schedule or Normal Administrative Practice (NAP).

#### Directors/Managers

- Ensure that records which are created and managed within their section comply with this Policy and any procedures are registered only in the approved recordkeeping systems and that staff attend the Information and Records Training and Education Program as required.
- Managers are responsible for ensuring that effective recordkeeping practices within their department are performed in accordance with this policy. That their staff create and keep records as an integral part of their work, and in accordance with established policies, procedures, and standards and not within network, group or personal drives or using USBs. That information about Bathurst Regional Council recordkeeping policies, systems and procedures are communicated throughout their department.
- Ensure staff utilize Content Manager to capture official records and staff attend or request training associated with Content Manager and/or recordkeeping.
- The Records Team Leader manages the Information and Records Training and Education Program which sits under this policy.
- Council no longer supports the creation of hard copy records. All information and records must be created or captured electronically as per Council business processes.

#### All staff/Councillors

All Council staff must:

- Comply with this Records and Information Management Policy and its supporting procedures issued from time to time.
- Keep full and accurate records of Council business in the approved recordkeeping systems and not within network, group or personal drives or using USBs.
- Ensure by default open access to all records unless that record needs protection.
- Not dispose of or destroy any records.
- Maintain confidentiality of records,

**Contractors and Volunteers**

- Manage records that they create on behalf of Council according to this policy and its supporting procedures.
- Supply their appointed Council contact copies of records they create on behalf of Council for registering in the recordkeeping system.
- Maintain confidentiality of records,

**3.2 Compliance and Breaches**

- The Manager Corporate Governance is responsible for making and administering arrangements for the monitoring of the Records and Information Management Policy.
- Reports of noncompliance and breaches in policy will be reported to the respective Director. Sustained breaches, or breaches where in the opinion of Manager Corporate Governance are significant, will be directed to the General Manager.
- Council's Records Section must comply with relevant legislation and approved standards and procedures.
- The Records Team Leader is responsible for implementation of the Records and Information Management Strategy and the business owner of the recordkeeping system.
- Each Manager is accountable for the effective management of information and records and the effective implementation of the Records and Information Management Strategy across their business unit.
- All staff are responsible for the capture, maintenance and security of records related to their business transactions.
- All staff are responsible for ensuring continued and appropriate access to Council's information and records.

## 4 Document control

**4.1 Review**

This policy will be reviewed every two years or when changes to legislation occur.

<b>POLICY:</b>	REFUGEE WELCOME ZONE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	23.00057
<b>OBJECTIVE:</b>	That Bathurst Regional Council declare the City of Bathurst a Refugee Welcome Zone.

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That Bathurst Regional Council declare the City of Bathurst a Refugee Welcome Zone.

Aspects of a Refugee Welcome Zone are:

- welcome refugees into the Bathurst community.
- Upholding the human rights for refugees
- Understanding their experiences
- Acknowledge that refugees can and do balance our cultural and religious diversities.

Bathurst Regional Council to provide a leadership role in the local community to:

- support a tangible and visible policy of welcome, acceptance and hope to people classed as refugees in Australia today;
- be an ongoing partner in a wide community forum in our local government region that discusses the needs and treatment of refugees and asylum seekers in Australia today.
- Endorse and support the development of a community strategy to identify, support and welcome refugees within the Bathurst community

*The Bathurst City Council,*

*Declares the City of Bathurst a*

## **Refugee Welcome Zone**

*This Declaration is a Commitment in Spirit to  
**Welcoming** refugees into our community,  
Upholding the **Human Rights** of refugees,  
Demonstrating **Compassion** for refugees and  
Enhancing cultural and religious **Diversity** in  
our community.*

\_\_\_\_\_  
Signed: Cllr Ian Macintosh, Mayor  
Bathurst City Council

Date: \_\_\_\_\_

*This Declaration is proudly supported and endorsed  
by the  
**Refugee Council of Australia.***

*The Refugee Council of Australia is a peak national organisation  
representing over 120 organisations and individual members. The aim  
of the Refugee Council is to promote the adoption of flexible, humane  
and constructive policies toward refugees, asylum seekers and  
displaced persons by the Australian and other Governments and their  
communities.*

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<b>POLICY:</b>	SECTION 355 COMMITTEE GUIDELINES - RESERVES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former Evans Policy)
<b>FILE REFERENCE:</b>	03.00006
<b>OBJECTIVE:</b>	Ensure the proper operation of Reserve Management Committees.

### Management Committees

Unless prior written authorization has been given by Council, Committees will not, and will not permit any entity to, within the Reserve(s) under their control:

1. Make any structural alterations to, or remove any fitting or apparatus from, any equipment therein.
2. Damage intentionally any lawn, playing surface, green or cricket pitch: provided that minor damage occasioned as a result of training and/or conduct of a sporting event which, in the opinion of the Director of Environmental Services is incidental to the conduct of the relevant activity, shall be deemed unintentional.
3. Damage or remove any ornamental and/or native flora or part thereof.
4. Break, damage or deface any structure, machinery, equipment, sign, descriptive plate, label or monument.
5. Obstruct any employee of, or contractor to, council in the performance of their duties.
6. Permit the erection of transportable or temporary structures such as amusement devices which require authorisation.

Committees may give prior written authorisation to any entity using Council's Reserve(s) under their control, subject to the concurrence of the Director Environmental, Planning & Building Services, to:

- (i) Conduct an address, meeting, match, function or amusement.
- (ii) Distribute, sell or offer for sale any lawful item.
- (iii) Remove or disturb any rock, stone, sand, soil or like matter.
- (iv) Light any fire.
- (v) Affix any permanent advertising bill or poster on any tree, seat, fence, building, table, enclosure or structure.
- (vi) Climb in or on any building, fence, seat, table, tree, enclosure or structure.

- (vii) Allow any vehicle to park in an undesignated parking area.

<b>POLICY:</b>	SEWER – LEVYING OF ANNUAL CHARGES FOR SEWERAGE SERVICES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Corporate Services & Finance’s Report #1 Council 2 November 2005 Minute Book No. 9693
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (formerly “Rates – Levying of Sewerage Rates”)
<b>FILE REFERENCE:</b>	16.00004
<b>OBJECTIVE:</b>	To establish guidelines for levying of annual charges for sewer in connection with sewerage services.

Land which shall be subject to annual charges for sewage services is:

1. land which is connected to the sewer of the council OR,
2. land which is within 75 metres from a sewer mains of the council although the land is not actually connected to the sewer of the council (subject to land which is prevented or prohibited from connection by the provisions of paragraph b.)
  - a. PROVIDED THAT an annual charge for sewage services shall not be levied on land which cannot discharge sewage into any sewer of the council and also provided that land which is not actually connected to the sewer and which shall not be subdivided or used for residential, industrial or commercial purposes in accordance with Council’s current Town Planning Instrument, shall be exempt from annual charges for sewer.
  - b. AND FURTHER PROVIDED THAT, in the case of commercial strata properties used only for the purposes of self storage facilities or car parking spaces, where sewer services are not connected to the individual strata units, annual charges for sewer services shall be levied on the Body Corporate of the strata plan and not on the individual strata unit owners in accordance with Council’s Revenue Policy for water and sewer access charges.



<b>POLICY:</b>	SEWER BLOCKS – REVIEW OF PAYMENT TO PRIVATE PERSONS FOR SEWER BLOCKS IN COUNCIL MAINS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #9.3.5 Council 20 October 2021 Resolution No ORD2021-371 Council 17 November 2021 Resolution No ORD2021-388  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	26.00002
<b>OBJECTIVE:</b>	To provide for reimbursement of private property owners for reasonable costs incurred for drainage of sewer blocks

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1. Council will reimburse property owners for reasonable costs involved in their engagement of a Private Plumber to clear sewerage blockage which is established to be in Council's sewer mains.
  2. Such reimbursement will be limited to a payment for up to two man hours work at the current rate listed in Council’s Revenue Policy.
  3. Reimbursement means that the property owner must have already paid the Plumber’s Account.
  4. Reimbursement will depend on the confirmation, to Council's satisfaction, that the blockage was in fact in Council's sewer main at the stated date. This will be carried out by checking in Maintenance Request Records and/or with Sewer Maintenance Staff.
  5. Council's responsibility for maintenance of the sewerage service ends at either (i) the collar of the 150 mm diameter junction on the sewer main itself, of (ii) the collar of the 150 mm riser piper which has been brought up from the sewer main to within 1.8 metres of the ground surface.

<b>POLICY:</b>	SISTER CITY AGREEMENT – FRIENDSHIP RELATIONSHIP WITH ZHANG JIA KOU OF HEBEI PROVINCE CHINA
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.2.1 Policy 3 April 2024 Resolution No. POL2024-9  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	23.00011
<b>OBJECTIVE:</b>	To foster the development of friendly relations and co- operation between the two communities.

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That the basis of the relationship be to enhance mutual understanding of friendship of the cities and to develop exchanges in the fields of economy, trade science, technology, culture and education to promote mutual prosperity in both cities.



### Letter of Intent for Establishment of Friendship City Relationship

Between the City of Zhang Jia Kou of Hebei province of the People's Republic of China and Bathurst City Council of Australia, through friendly consultations, sign this Letter of Intent.

1. In accordance with the basic principles of Sino Australia Communique on the Establishments of Diplomatic Relations, we agree to explore the possibility of a future relationship.
2. If a relationship is established, it is agreed that the basis of the relationship is to enhance mutual understanding of friendship of the Cities and to develop exchanges in the fields of economy, trade, science, technology, culture and education to promote mutual prosperity in both Cities.
3. It is agreed that all discussions towards any future relationship shall occur on the basis of friendship, equality and mutual benefit.
4. There will be cooperation between the Cities through the Foreign Affairs Office of Zhang Jia Kou Municipal People's Government and the Bathurst City Council.

This letter of intention is signed at Bathurst City Council on the Thirty-first Day of March 1999 in duplicate in the English and Chinese languages.

Ms Yang Gui Zhen  
Vice Mayor of Zhang Jia Kou Municipal Government

Cr Ian Macintosh  
Mayor of Bathurst



<b>POLICY:</b>	SISTER CITY AGREEMENT – OHKUMA
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120
	Director Corporate Services & Finance’s Report #8.2.5 Council 19 May 2021 Resolution No: ORD2021-151 Council 16 June 2021 Resolution No: ORD2021/169
	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	23.00011
<b>OBJECTIVE:</b>	To foster the development of friendly relations and co-operation between the two communities.

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That the City of Bathurst and the Town of Ohkuma agree to establish a Sister City affiliation for the promotion of a wide range of exchange activities in such fields as culture, education, sport and technology.



## SISTER CITY AGREEMENT

The City of Bathurst and the Town of Ohkuma believe that the development of friendly relations and co-operation between the two communities on a people to people basis and the promotion of mutual understanding and goodwill between the citizens of both communities will enhance the quality of life within our communities and will greatly contribute to the development of friendly relations between Australia and Japan.

In order to foster the Friendship Agreement already existing between our two communities it is agreed that the City of Bathurst and the Town of Ohkuma hereby agree to establish a Sister City affiliation for the promotion of a wide range of exchange activities in such fields as culture, education, sport and technology.

It is for confirmation of the above that both Mayors hereby affix their signatures to this agreement on 25 March 1991.

*Ann Ashwood*

Alderman Ann Ashwood  
Mayor of Bathurst  
Australia

志賀 秀朗

Mr Shurou Shiga  
Mayor of Ohkuma  
Japan



<b>POLICY:</b>	Social Media Policy – Councillors
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #8.3.5 Ordinary Council Meeting 19 July 2023 Resolution No. ORD2023-196
	Director Corporate Services & Finance Report # 1 Extraordinary Meeting of Council 24 February 2021
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services' Report #1 Extraordinary Meeting of Council 24 February 2021 Resolution number ORD2021-56
<b>FILE REFERENCE:</b>	11.00050
<b>RESOLUTION NUMBER:</b>	ORD2021-56
<b>OBJECTIVE:</b>	To provide guidance to Councillors on the use of Social Media platforms.

## INTRODUCTION

Social media can:

- Increase residents' access to Council
- Increase Council's access to residents and improve the accessibility of Council communication
- Allow Council to be more active in its relationship with residents, partners and other Stakeholders
- Increase the level of trust in Council
- Reach targeted audiences on specific issues, events and programs
- Provide effective, fast communication channels during crises
- Provide insights into how Council is perceived

To provide guidelines to Councillors on business and personal use of Social Media in order to minimise the potential for negative impacts to Council's reputation.

## 1. SCOPE

This policy applies to the official, personal and professional use of social media by all Councillors. It applies to all activities undertaken in their capacity as councillors, administrators, council committee members and delegates of Council.

As a Councillor, it is your responsibility to ensure that your actions or communications on your personal or Council-owned social media account do not bring Council into disrepute.

## 2. PRINCIPLES

In support of the Code of Conduct principles, social media usage on behalf of Council must:

- Strengthen the public's trust and confidence in the integrity of Council. (Leadership)
- Be made in the public interest and not in order to gain financial or other benefits for yourself, your family, friends or business interests. (Selflessness)
- Be credible, accurate, fair and transparent. (Impartiality)
- Apply appropriate record keeping to ensure accountability for decisions and actions made. (Accountability)
- Be respectful, cordial, thorough and professional at all times. Including when referencing and dealing with Council staff. (Respect)
- Demonstrate honesty and integrity, ensuring any actual or potential conflict of interests relating to your social media interactions are declared and taking steps to resolve any conflicts in such a way that protects the public interest and Council's. (Honesty)

## 3. COMPLIANCE

Depending on the circumstances, non-compliance with this policy (and any other related policy) may constitute a breach of the Code of Conduct, misconduct, harassment, discrimination, or some other contravention of the Council's Policies and applicable laws. Failure to comply with this policy may result in proceedings under the Code of Conduct, disciplinary action and, in serious cases, civil or criminal proceedings in a court of law.

## 4. DEFINITIONS

<b>Council committee</b>	Committee established by a Council comprising of Councillors, staff or other persons that the Council has delegated functions to and includes the Council's Audit, and Risk Management Committee.
<b>Councillor</b>	Any person elected or appointed to Civic Centre Office, including the Mayor and includes members or chairperson of County Councils and voting representatives of the boards of joint organisations and chairperson of joint organisations.
<b>Official Use</b>	Official use refers to when a Councillor creates/comments on an official Bathurst Regional Council social media site as a representative of the Council. Or comments on a non-Council social media site as a representative of the Council.



**Person Use** Personal use is when a Councillor comments in their personal capacity on either their own or another person's/company's social media platform. Councillors should be aware that their personal commentary via social media may have implications as an official of Bathurst Regional Council.

**Social Media** Social media are online services and tools used for collaborating, publishing, sharing and discussing information. Social media services and tools can involve a combination of technology, telecommunications and social interaction. They can use a variety of different formats, including text, pictures, video and audio.

Social Media may include (but is not limited to): Facebook, Twitter, YouTube, What's App Messenger, Google+, LinkedIn, Yammer, Instagram, Snapchat, Flickr and Blogs)

## 5. ROLES AND RESPONSIBILITIES

### COUNCILLORS AND MAYOR

The Mayor and Councillors are personally responsible for the content they publish on social media. Social media sites are in the public domain and it is important that Councillors and the Mayor ensure they are confident of the nature of the information they publish and are aware that any social media activity, either official or personal, is permanent, traceable and easily distributed. Government tribunals have found that it is not possible to distinguish between a Councillor's official use and their private use.

Councillors and the Mayor are advised to make use of stringent privacy settings to avoid their personal social media accounts being accessed by the press or public.

#### The Mayor and Councillors

The Mayor is Council's official spokesperson on all policy matters and key decisions made by Council. The Mayor may nominate another Councillor to speak on a particular matter.

In their capacity as a Council official, the Mayor and Councillors:

- May express their personal view on social media on matters relating to Council policy and other matters of public interest, however this should be clearly identified as the personal view of a Councillor and not an official Council position or policy and must not bring the Council, Council decisions or the civic office into disrepute
- May issue official media releases on his/her personal social media sites.
- Must not publish content or interact in a way that compromises their capacity to perform their official duties in an unbiased manner.
- Should understand that 'shares', 'likes' or 'retweets' may be viewed as an endorsement of the original post
- Must not make comments or speak on behalf of Council, commit to any actions or communicate materials that are obscene, pornographic, threatening, harassing, abusive or defamatory.

- Must not post confidential unauthorised information, or release misleading information or pre-empt Council announcements that may be deceptive and impact Council or damage Council's reputation.
- Maintain responsibility for the preparation, posting and management of their own content on their personal social media channels.
- Must not breach the privacy of Council, its officials and staff.

Councillors should also be mindful of their obligations under Council's Code of Conduct and that they are responsible for all content they publish on any form of social media. Any breaches may be referred to the General Manager and may be dealt with under Council's Code of Conduct.

## 6. OFFICIAL USE OF SOCIAL MEDIA AT BATHURST REGIONAL COUNCIL

As an Authorised Council representative you must be aware that you are personally responsible for the content of your social media posts and blogs, even though you are an approved representative of the Council. You can be held personally liable for any content deemed to be defamatory, obscene, proprietary or libellous. For these reasons, you must always exercise caution.

### As an Authorised Council representative you must:

- Be mindful you are representing the Council.
- Disclose and comment only on information already within the public domain (unless you are specifically given permission to reveal confidential information)
- Ensure that all content published is accurate and not misleading.
- Cite and link to resources when you can.
- Be responsive to questions and comments.
- Correct mistakes promptly.
- Ensure comments are respectful of the community with which you are interacting.
- Adhere to the Terms of Use of the relevant social media platform/website, as well as copyright, privacy, defamation, contempt of court, discrimination, harassment, other applicable laws, and all relevant Council policies

### As an Authorised Council representative you must not:

- Post material that is obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, or is otherwise unlawful.
- Use or disclose any confidential or secure information (unless required to do so).
- Post photos, videos, or other media without the consent of all participants (this includes tagging photos and names) the exception is at "public events" where image release approval is not required.
- Make any comment or post any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.
- Link the site/page with your personal social media sites/pages.

## 7. RECORD KEEPING

Social Media content is subject to various legislation which governs retention, storage and publication. You must keep official Council social media records. Online comments can be held to the same legal standards as traditional media communications.

<b>POLICY:</b>	SPONSORSHIP
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	18.00004
<b>OBJECTIVE:</b>	To establish general principles to apply to the negotiation and implementation of sponsorship agreements.  To ensure the public interest is best served when entering into sponsorship arrangements.

## Definition

**Sponsorship:** means a contribution in money or kind, generally by the corporate sector or private individuals, in support of a public sector activity. It does not include the selling of advertising space, joint ventures, consultancies and gifts or donations where the reciprocal benefit provided by Council does not extend beyond some modest acknowledgement.

## Sponsorship

Bathurst Regional Council welcomes any opportunity to increase the amenity of the city area for the community. Sponsorship is an opportunity to increase the level of service provision to the community, whilst at the same time containing the direct community cost of service provision to affordable levels. Council views sponsorship activities as an ideal way of increasing community participation, which is essential to a healthy and vibrant community.

For private sector organisations, sponsorship of government activities is an important part of many marketing programmes. Sponsorship of Government activities helps to raise the corporate profile and allows the private sector to market their products and increase sales. At the same time, it gives an opportunity for organisations to give something back to the community, as many see this as part of their social responsibility.

The opportunity to be associated with government in an activity is good for the business reputation. It encourages and develops the concept of community and business working together, which is important, and results in a better community for all.

Sponsorship opportunities are thus an ideal way for all involved to achieve various desired outcomes, with the community in particular being the "winners".

This Policy provides a set of principles which have been developed to give all parties concerned, clear and concise guidelines to ensure that the integrity and probity of the sponsorship decision making process are maintained.

## **General Principles**

1. No sponsorship agreements will be entered into which impose or imply conditions that would limit, or appear to limit, Council's ability to carry out its functions fully and impartially.

Any attempt to influence Council's functions will result in an automatic review and/or termination of the sponsorship agreements. Such termination will not entitle the sponsor to claim compensation.

2. Sponsorship agreements are not to be entered into that involve a conflict or a perceived conflict, between the objectives and mission of Council and those of the sponsor. This includes but is not limited to:
  - (a) Persons/bodies involved in the manufacture, distribution or wholesaling of tobacco related products;
  - (b) Persons/bodies involved in the manufacture, distribution and sale of illegal drugs, or any other illegal activity;
  - (c) Persons/bodies whose services or products are injurious to health, or are seen to be in conflict with Council's policies and responsibilities to the community;
  - (d) Persons/bodies who are in breach of regulations or ordinances administered by Council eg an organisation operating without development approval;

Each project is to be assessed on the individual merits of the sponsor and the items/event to be sponsored.

Council shall establish criteria by which any proposals will be assessed. The criteria should either be published in advance or be made available to all persons/bodies who submit expressions of interest. Where a sponsor's corporate mission or objectives change, Council will review the sponsorship arrangement to see whether the arrangement should be maintained. Where Council considers such changes create or involve a conflict or a perceived conflict, between the objectives and mission of Council and those of the sponsor, Council may terminate the sponsorship agreement. Such termination will not entitle either party to claim compensation.

3. When sponsorship is secured from persons or bodies which are, or are likely to be, subject to regulation and/or inspection by Council during the life of the sponsorship, sponsors are to be advised in writing that:

*Such sponsorship negotiations have no relationship or bearing on Council's exercise of its regulatory and/or inspectorial functions.* Sponsors are to be informed in writing, that Council may terminate any sponsorship agreement if the sponsor should engage in any activity that contravenes Council regulations. Such termination will not entitle either party to claim compensation.

If the sponsor should become involved in a regulatory and/or inspectorial activity Council will have the right to forthwith terminate the sponsorship agreement and no party shall be entitled to compensation. The Council may also seek appropriate independent advice on the merits of the regulatory application, whether it ought to be approved, and if so, on what conditions.

- 4 Sponsorship of any Council activities will not involve explicit endorsement of the sponsor or the sponsor's products.
- 5 Where a sponsorship agreement involves the provision of a sponsor's product, Council will evaluate the product for fitness of purpose relevant to the Council's needs.
- 6 Sponsorship must not involve Councillors or employees of Council receiving a personal benefit. Where a benefit is provided by a sponsor on a corporate basis (eg meeting the cost of hospitality at a conference) Council should ensure there is not perception of a public benefit being given to a public official as an individual. The issue of personal benefit is addressed in greater detail in Council's Code of Conduct.
- 7 Sponsorship opportunities will generally be promoted widely by Council and will not be limited to invited sponsors.
- 6 Where a sponsorship arrangement is entered into between Council and any person/body such agreement is to be described in a written agreement, often an exchange of letters will suffice. The agreement should clearly set out:
  - (a) Objective of the sponsorship;
  - (b) The benefits, including economic benefits, available to the sponsored agency and to the sponsor;
  - (c) Any personal benefits available to the sponsor's employees and their relatives;
  - (d) The form or forms of sponsorship acknowledgement which will be available;
  - (e) The scope of uses which the sponsor can make of the sponsorship arrangement;
  - (f) Consequences of changes which may occur over time (for example, a shift in the relationship, new policies, new corporate missions or objectives);
  - (g) Financial accountability requirements;
  - (h) Provisions for conflict resolution, termination or suspension of the agreement;
  - (i) Any special conditions that apply (should include specific exclusions contained in this policy at Items 1, 4 and 6);
  - (j) Evaluation process to occur after the sponsor agreements.
- 7 The General Manager or his/her nominee, in accordance with the sponsorship policy adopted by the Council must approve all sponsorship agreements;
- 8 The Council Officer responsible for the Sponsorship agreement must ensure that sufficient resources are available to enable the promised sponsor benefits to be delivered. The Council Officer should provide sufficient information on progress for the sponsor to evaluate the outcomes of the sponsorship.

Any consideration given to the establishment of sponsorship agreements shall include regard to the maintenance of a consistent and professional image of Council and the sponsor within the community at all times.



<b>POLICY:</b>	SPORTSGROUND – PORTABLE TOILETS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #8.2.5 Council 19 May 2021 Resolution No: ORD2021-151 Council 16 June 2021 Resolution No: ORD2021/169  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	04.00007
<b>OBJECTIVE:</b>	Provision of portable toilets at the Sportsground

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That Council supply portable toilets for major events at the Sportsground.

<b>POLICY:</b>	STAFF - CHRISTMAS OFFICE CLOSURE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.5 Ordinary Council Meeting 20 September 2023 Resolution No. ORD2023-269
	Director Corporate Services & Finance's Report #8.3.5 Council 22 September 2021 Resolution No ORD2021-330 Council 20 October 2021 Resolution No ORD2021-349
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	19.00020
<b>OBJECTIVE:</b>	To provide guidelines for Christmas closure of Council services

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That Council close its offices between Christmas and New Year with staff having the option of either taking annual leave or rostered days off.



<b>POLICY:</b>	STAFF – DESIGNATED PERSONS DISCLOSING INTERESTS
<b>DATE ADOPTED:</b>	<p>Director Corporate Services &amp; Finance’s Report #8.1.1 Policy 3 July 2024 Resolution No. POL2024-23</p> <p>Director Corporate Services &amp; Finance’s Report #8.2.1 Policy 3 April 2024 Resolution No. POL2024-9</p> <p>Director Corporate Services &amp; Finance Report #8.3.5 Council 17 November 2021 Resolution No: ORD2021-407 Council 2 February 2022 Resolution No: ORD2022-18</p> <p>Director Corporate Services &amp; Finance’s Report #1 Policy 6 July 2016 Council 20 July 2016 Minute Book No 12315</p>
<b>ORIGINAL ADOPTION:</b>	<p>Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)</p>
<b>FILE REFERENCE:</b>	11.00002
<b>OBJECTIVE:</b>	<p>This Policy:</p> <ul style="list-style-type: none"> <li>• Allow council to meet its regulatory compliance requirements under clause 4.21 of Council's Code of Conduct.</li> <li>• Identifies and determines positions within Council, the occupants of which are determined to be designated persons for the purposes of clause 4.8 of Council's Code of Conduct.</li> </ul>

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Under clause 4.8 of Council's Code of Conduct, “designated persons” are defined as:

- The general manager
- Other senior staff of the council for the purposes of section 332 of the Local Government Act 1993
- A member of staff who holds a position involving the exercise of council’s functions, which in their exercise could give rise to a conflict between a person’s duty as a member of staff and the person’s private interest.

The following positions within Council’s organisation structure are identified as “designated persons”:

1. The General Manager

2. Other senior staff of the Council as follows:
  - Director Corporate Services and Finance
  - Director Cultural and Community Services
  - Director Engineering Services
  - Director Environmental, Planning and Building Services
  
3. The following members of staff:
  - Art Gallery Director
  - Manager BMEC
  - Manager Corporate Communications
  - Manager Community Services
  - Manager Corporate Governance
  - Manager Development Assessment
  - Manager Economic Development
  - Manager Environment
  - Manager Events
  - Manager Financial Services
  - Manager Human Resources
  - Manager Information Services
  - Manager Library Services
  - Manager Museums Unit
  - Manager Recreation
  - Manager Strategic Planning
  - Manager Technical Services
  - Manager Tourism and Visitor Services
  - Manager Water and Waste
  - Manager Works
  - Museum Coordinator NMRM
  - Project Management Coordinator
  - Purchasing Compliance Officer

### **Management of Written Returns of Interest**

Councillors and designated persons must lodge a written return of interests in accordance with clause 4.21 of Council's Code of Conduct.

Annual disclosures are due by 30 September each year. First time returns for those newly appointed to a relevant role are due within 3 months of commencement in that role. Updated returns are also required when a person's interests change.

Written returns are considered 'open access information' under the Government Information (Public Access) Act 2009 (GIPA Act) and must be made publicly available on Council's website unless there is an overriding public interest against disclosure.

The General Manager, as Council's principal officer under the GIPA Act, has determined that there is an overriding public interest against disclosing the residential address (home address) and physical signature of designated persons on the website, accordingly, residential address and physical signature of designated persons will be redacted from returns published on the website.

<b>POLICY:</b>	STAFF - ORGANISATION STRUCTURE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #9.2.5 Council 17 May 2023 Resolution No. ORD2023-120
	Director Corporate Services & Finance Report #7.1.2 Council 23 June 2021 Resolution No. ORD2021-226 Council 21 July 2021 Resolution No. ORD2021-234
	Director Corporate Services & Finance Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	General Manager's Report #2 Council 16 June 2004 Minute Book No. 9252
<b>FILE REFERENCE:</b>	11.00002
<b>OBJECTIVE:</b>	To provide an operating structure for the Bathurst Regional Council.

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### **Organisation Structure**

The organisation structure is based on:

1. Facilitating an organisation structure that will meet the current and future needs of Council and the community.
2. Ensuring stability and certainty within the organisation
3. Delivering an efficient, sustainable ongoing structure
4. Providing improved outcomes for the citizens of the area ensuring properly delivered services.

The existing organisation structure has been reviewed during the planning process and consists of the General Manager and the following Department Structure:

- Corporate Services & Finance
- Engineering Services
- Environmental, Planning & Building Services
- Cultural & Community Services

The organisation structure and associated functions are as follows:

**Director Corporate Services & Finance**

Payroll, Administration, Governance, Stores/Purchasing, Information Services, Geographic Information Systems, Records, Human Resources, Risk Management/Insurance, Rates, Creditors/Debtors, Business Papers, Government Information (Public Access), Public Interest Disclosures, Work Health & Safety, Internal Audit, Annual Report, Delivery & Operational Plan, Financial Management, Committee Secretariat, Switchboard, Customer Request Management System, Customer Service, State Emergency Service, Rural Fire Service, Emergency Management, Marketing, Property Development & Management, Mount Panorama Business/Conferencing & Events, Sister City, Corporate Communications.

**Director Engineering Services**

Water, Sewer, Waste & Recycling Collection, Waste Management Centre, Parks & Gardens, Manning Aquatic Centre, Depot, Plant (Workshop), Floodplain, Management, Mount Panorama Operations, Maintenance (roads, bridges, kerb & guttering), Construction (roads, bridges), Contract Management, Design Works, Disaster Planning & Response, Aerodrome, Asset Management, Project Management, Forward Planning: Environment, Recreation & Infrastructure, Rural Works, Indoor Sports Stadium, Tennis Courts, Netball Courts, Bathurst Bike Park, Traffic Management, Buildings Maintenance, Subdivision Design & Construction, Vegetation Management Plan, Cemeteries, Drainage/Stormwater, Private Works.

**Director Environmental, Planning & Building Services**

Land Use Planning, Environmental Planning, Building Control, Health, Pollution Control, Development Control & Applications, Parking Rangers, Stock Impounding, Heritage & Conservation, Regulatory Functions, Animal Control, Companion Animals, Food/Health Inspections, State of Environment, Septic Tanks, Strategic Planning, Subdivision Planning, Section 94 Contributions, Plumbing & Drainage, Environmental Management, Contamination, Economic Development, Sustainability.

**Director Cultural & Community Services**

Art Gallery, Library, Chifley Home and Education Centre, Australian Fossil & Mineral Museum – home of the Somerville Collection, Bathurst Memorial Entertainment Centre, Scallywags Childcare, Family Day Care, Vacation Care, Community Services, Cultural Planning, Access and Inclusion, Community Social and Strategic Planning, Community Development, Historical Society, Youth Council, Community Safety, Community Facilities, Community Halls/Groups: Eglinton, Raglan, & Perthville, Community Organisations: Rockley, Hill End, Sofala, Eglinton, Wattle Flat, Trunkey Creek, The Neighbourhood Centre, Home & Community Care Centre & Kelso Community Hub, Club Grants, Community Interagencies, Senior Citizens Centre, National Motor Racing Museum, Bathurst Rail Museum, Tourism, Destination Management, Central Tablelands Collection Facility.

<b>POLICY:</b>	STAFF – PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #9.3.5 Council 20 October 2021 Resolution No ORD2021-371 Council 17 November 2021 Resolution No ORD2021-388  Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former Evans Policy)
<b>FILE REFERENCE:</b>	11.00015
<b>OBJECTIVE:</b>	To set guidelines for interaction between Councillors and Staff.

## 1. AIMS

This policy will:

- provide clear communication channels to ensure the speedy provision of accurate information.
- recognise the particular circumstances of the council.
- require adequate training of staff and councillors on the need for the policy and its requirements.
- provide appropriate sanctions for non-compliance; and
- be reviewed periodically to monitor its effectiveness and compliance.

## 2. OBJECTIVES

The objectives of this policy are to:

- provide a documented process on how councillors can access council records.
- ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the council.

- ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner.
- provide direction on councillors' rights of access to council buildings; and
- provide a clear and consistent framework for the reporting of and appropriate application of sanctions for breaches of this policy.

### 3. INAPPROPRIATE INTERACTIONS

Council's policy is that the following interactions are inappropriate:

- councillors approaching junior members of staff for information on sensitive or controversial matters.
- members of staff approaching councillors directly (rather than via their director, staff representative or union delegate) on staffing or political issues.
- staff refusing to give information, which is available to other councillors, to a particular councillor because of the staff member's or councillor's political views.
- councillors who have a development application (DA) before Council discussing the matter with junior staff in staff-only areas of the council.
- junior staff being asked to answer questions or provide documents to councillors who are overbearing or threatening.
- councillors directing or pressuring staff on recommendations they should make or in the performance of their work; and
- staff providing advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.

### 4. STATUTORY PROVISIONS FOR COUNCILLORS AND STAFF

Chapter 9 How are Councils established? and Chapter 11 How are Councils staffed? of the Local Government Act set out the statutory roles and duties of councillors and the General Manager.

Chapter 9 includes the following provisions.

#### **1. The governing body (s.222)**

*The elected representatives, called "councillors," comprise the governing body of the council.*

#### **2. The role of the governing body (s.223)**

*The role of the governing body is to direct and control the affairs of the council in accordance with this Act.*

### **3. The role of the Mayor (s.226)**

*The role of the Mayor includes:*

- *to be the leader of the council and a leader in the local community.*
- *to preside at meetings of the council.*
- *to carry out the civic and ceremonial functions of the mayoral office; and*
- *to promote the effective and consistent implementation of the strategic plans, programs and policies of the council.*

### **4. The role of a councillor (s.232)**

*The role of a councillor includes:*

- *to be an active and contributing member of the governing body.*
- *to participate in the development of the integrated planning and reporting framework.*
- *to uphold and represent accurately the policies and decisions of the governing body; and*
- *to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.*

### **5. The functions of the General Manager (s.335)**

*The General Manager has the following functions:*

- *to conduct the day-to day management of the council in accordance with the strategic plans, programs, strategies and policies of the council.*
- *to implement, without undue delay, lawful decisions of the council.*
- *to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council.*
- *to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions; and*
- *to exercise any of the functions of the council that are delegated by the council to the general manager.*

## **5 ACCESS TO COUNCIL RECORDS BY COUNCILLORS**

### **1. Statutory provisions**

Section 6(1) of the Government Information (Public Access) Act 2009 (GIPA Act) provides that the council must make government information that is open access information publicly available. Section 18 of the GIPA Act describes open access information:

#### ***s.18 What constitutes open access information***

*The following government information held by an agency is the agency's **open access information** that is required to be made publicly available by the agency under section 6 (Mandatory proactive release of certain government information):*

- (a) the agency's current publication guide (see Division 2).*
- (b) information about the agency contained in any document tabled in Parliament by or on behalf of the agency, other than any document tabled by order of either House of Parliament.*
- (c) the agency's policy documents (see Division 3).*
- (d) the agency's disclosure log of access applications (see Division 4).*
- (e) the agency's register of government contracts (see Division 5).*
- (f) the agency's record (kept under section 6) of the open access information (if any) that it does not make publicly available on the basis of an overriding public interest against disclosure; and*
- (g) such other government information as may be prescribed by the regulations as open access information.*

Open Access information includes but not be limited to the following council documents:

- council's code of conduct
- council's code of meeting practice
- annual report
- annual financial reports
- auditor's report
- management plan
- EEO management plan
- the council's land register
- policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors
- register of investments
- returns of the interests of councillors, designated persons and delegates
- returns as to candidates' campaign donations
- business papers for council and committee meetings (but not including business papers for matters considered when a meeting is closed to the public)
- minutes of council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:
  - a) the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and
  - b) such other matters as the council or committee resolves should be made public
- register of delegations
- annual reports of bodies exercising delegated council functions
- local policies adopted by the council concerning approvals and orders
- records of approvals granted and decisions made on appeals concerning approvals
- records of building certificates



- development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and any associated documents excluding commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret
- plans of land proposed to be compulsorily acquired by the council
- leases and licences for use of public land classified as community land
- plans of management for community land
- environmental planning instruments, development control plans and plans made under s.94AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area
- departmental representatives' reports presented at a meeting of the council according to Section 433.

## 2. Code of Conduct

Part 8 of Council's Adopted Code of Conduct provides the following in relation to access to information

### 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

#### *Councillor and administrator access to information*

- 8.1 *The general manager is responsible for ensuring that councillors and administrators can gain information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the Government Information (Public Access) Act 2009 (the GIPA Act).*
- 8.2 *The general manager must provide councillors and administrators with information sufficient to enable them to carry out their official functions.*
- 8.3 *Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.*
- 8.4 *Members of staff of Council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.*
- 8.5 *Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.*
- 8.6 *Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.*

### 3. Procedures

Access to a council file, record or other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common law rights of access.

Councillors can request the General Manager, the public officer or a person nominated by the General Manager to provide access to a particular council record.

Councillors who have a personal (as distinct from official) interest in a document of council have the same rights of access as any other person.

Councillors are entitled to access to all council files, records or other documents where that document is identified as open access information or to a matter currently before the council.

The General Manager shall not unreasonably decide that a document is not relevant to the performance of the councillor's official duty and deny access to a council document. The General Manager must state reasons for the decision if access is refused. Should this avenue be denied then the Councillor has the option of a formal application for information under the Government Information (Public Access) Act 2009.

Generally, a request from a councillor for information will be responded to within 7 days. In some circumstances where the request is more complex the General Manager may within the 7 days advise the councillor that the response will take longer than the normal response period. In this circumstance the General Manager will ensure that the response is provided in the shortest time possible.

## 6. INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

### 1. During meetings

The interaction between Councillors and staff at council meetings and committee meetings is regulated by Council's Code of Meeting Practice.

Section 360 of the Local Government Act requires council to adopt a code of meeting practice that incorporates the mandatory provisions of the model code prescribed by the regulations to the Act.

### 2. Outside of meetings

- The General Manager is responsible to the council for performance and direction of all staff and day to day management of council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a council or committee meeting, be directed to the General Manager, or person/s nominated by the General Manager.
- Only senior officers and managers nominated by the General Manager can provide advice to councillors.

- It is within the discretion of the General Manager to require councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the council to obtain detailed or otherwise time-consuming information. The General Manager must indicate in writing, the reasons for refusing a request.
- It is within the discretion of the General Manager to require councillors to put their requests for detailed information or advice in writing to be answered by the General Manager or the appropriate senior officer. These written requests then form part of council records and can be filed appropriately.
- A senior officer has the discretion to refer any request for information to the General Manager. The senior officer must indicate to the councillor their reasons for the referral.
- If a councillor is concerned about any refusal to provide information, they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the councillor is still dissatisfied, they may request the information at a meeting of the council.
- Councillors must not attempt to direct staff as to the performance of their work. Staff must report all such attempts immediately to their director or the General Manager.
- Councillors must not request staff to undertake work for the councillor or any other person.
- A councillor, member of staff or delegate must not take advantage of their official position to improperly influence other councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.

## **7. ACCESS TO COUNCIL OFFICES**

- As elected members of the council, councillors are entitled to have access to the council chamber, committee room, Mayor's office, councillors' rooms, and public areas of the council's buildings.
- Councillors who are not in pursuit of their official duties have the same rights of access to council buildings and premises as any other member of the public.
- A councillor has no rights to enter staff-only areas without the express authorisation of the General Manager or his nominee or by resolution of the council.

## **8. BREACHES OF THIS POLICY**

### **1. Reporting**

- All occasions of a councillor or staff member not complying with this policy should be immediately reported to the General Manager.
- Where the report relates to the conduct of a councillor, the General Manager shall immediately report the matter to the Mayor and to the next council meeting.
- Where the report relates to the conduct of staff, the General Manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.
- Where a councillor believes that the General Manager has failed to comply with this policy, the councillor shall immediately report to the Mayor who will report the matter to the council.
- Before a report to council by the General Manager (or the Mayor), the General Manager (or the Mayor) should undertake preliminary inquiries to establish the facts. The preliminary investigation may take any form the Mayor and General Manager considers appropriate, but must involve discussions with the staff member and councillor involved. Natural justice principles need to be satisfied in dealing with an alleged breach.
- The council, or a committee of all councillors established for the purpose, must decide whether a matter reported to it under this policy, reveals a breach. The council may take any steps provided for in this policy that it considers reasonable in the circumstances.

## 2. Sanctions

Council, having resolved that a councillor has failed to comply with this policy, can, by resolution:

- require the councillor to apologise to the person concerned;
- request a formal apology;
- counsel the councillor;
- reprimand the councillor;
- resolve to make its decision on the matter public;
- pass a censure motion at a council meeting (councils should not underestimate the power of public censure as a deterrent);
- make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report);
- refer the matter to an appropriate investigative body if the matter is serious; and/or
- prosecute any breach of the law.

Sanctions for staff, depending on the severity, scale and importance of the breach, may include:

- counselling the staff member;
- instituting council disciplinary proceedings; or
- dismissal.

## 9. RIGHTS OF REVIEW

Should a Councillor be refused access to information then there are avenues available to review the decision. The NSW Office of Local Government and NSW Ombudsman have a complaint handling system in place that may help a councillor to gain access to information. Their contact details are as follows:-

### NSW Office of Local Government

Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
 Postal Address: Locked Bag 3015, NOWRA NSW 2541  
 Phone: (02) 4428 4100

### NSW Ombudsman

General phone: 1800 451 524  
 Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
 Complaints can be made using the Ombudsman's Online Complaint Form.

### Information and Privacy Commission

The NSW Information and Privacy Commission has been established to oversee the GIPA Act. The IPC provides information about the right to access to information and can be contacted via:

Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au) Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
 Mail: GPO Box 7011 Sydney NSW 2001  
 Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000  
 Phone: 1800 472 679

### Rights of Review under the Government Information (Public Access) Act 2009

There are rights to review a decision made by the Right to Information Officer. A full list of reviewable decisions is set out in the GIPA Act.

### Internal Review

If an access application has been refused, there is a general right to seek an internal review of the decision. An internal review must be applied for within 20 working days of the original decision and is subject to a fee. Internal review involves a senior person in the agency reviewing the original decision.

### Role of the Information Commissioner

The Information Commissioner can review a decision to refuse access to information if requested by the applicant, notwithstanding any internal review being undertaken. However, for other persons seeking review, an internal review must first be undertaken. The Information Commissioner also deals with complaints under GIPA Act.

### External Review (NSW Civil and Administrative Tribunal)

Applicants also have formal avenues via the NSW Civil and Administrative Tribunal (NCAT) to review the decision to refuse access.

<b>POLICY:</b>	STAFF – REIMBURSEMENT OF TRAVELLING AND OTHER EXPENSES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Corporate Services & Finance’s Report #2 Policy 7 February 2007 Council 21 February 2007 Minute Book No. 10065
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	03.00049
<b>OBJECTIVE:</b>	To establish guidelines for payment of expenses incurred by staff

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1. Council will reimburse claims for expenses incurred by staff in relation to discharging their duties of employment for actual costs or pay a daily allowance as per current Taxation Office Guidelines:
  - (a) Where an overnight stay is not involved
  - (b) Where an overnight stay is involved in Sydney and capital cities
  - (c) Where an overnight stay is involved in other centres
2. Where a staff member provides his/her own motor vehicle for transport in relation to discharging the functions of his/her employment, reimbursement of costs will be made on a per kilometre basis at the rates specified under the Local Government (State) Award

<b>POLICY:</b>	STAFF – WORK HEALTH SAFETY
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's' Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services' Report #2 Policy 1 December 2004 Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	11.00032
<b>OBJECTIVE:</b>	To set guidelines to ensure the safety of staff members.

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## **POLICY STATEMENT**

Bathurst Regional Council is committed to reducing or eliminating risks to the health and safety of Officers, workers and others in the workplace.

This commitment will be demonstrated by Council, as the Person Conducting a Business or Undertaking (PCBU), through due diligence to the following;

1. so far as reasonably practicable ensure the health and safety of other persons are not put at risk from work being carried out by Council or on councils behalf,
2. so far as reasonably practicable ensure the provision and maintenance of a work environment without risks to health and safety,
3. so far as reasonably practicable ensure the provision and maintenance of safe plant and structures
4. so far as reasonably practicable provide safe systems of work
5. so far as reasonably practicable ensure the safe use, handling and storage of plant, structures and substances,
6. so far as reasonably practicable ensure the provision of adequate facilities for the welfare at work of workers involved in carrying out work for Council including ensuring access to those facilities,
7. so far as reasonably practicable ensure the provision of any training instruction or supervision that is necessary to protect all persons from risk to their health and safety arising from work carried out as part of the conduct of the business or undertaking,
8. ensuring that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of Council business.
9. so far as reasonably practicable allow for consultation, representation and participation as described in the Workplace Health and Safety Act 2011 (WHS Act)

### **1. GENERAL**

The health and safety of all staff members, contractors, and members of the public should be considered a matter of primary concern to all levels of Council, and as such, it is essential



that every worker involved with Bathurst Regional Council be aware of their responsibilities as a worker, supervisor, manager, officer, or as a representative of Council as a PCBU.

## 2. SCOPE

This policy applies to all Bathurst Regional Council staff, workers, contractors, sub-contractors, and volunteers, users of Council facilities and assets and members of the public and committees as appropriate.

## 3. DEFINITIONS

<b>Term</b>	<b>Definition</b>	<b>Explanation</b>
<b>PCBU</b>	Person conducting a business or undertaking	Council as a corporate identity
<b>Officer</b>	Someone who makes, or participates in making decisions that affect the whole, or substantial part of the corporation	General Manager Directors
<b>Worker</b>	A person who carries out work in any capacity for a person conducting a business or undertaking	Employees, contractor or subcontractor, an employee of a contractor or subcontractor, an employee of a labour hire company working for Council, an apprentice or trainee, a work experience student, a volunteer
<b>Others</b>	Customers and visitors	Any customers clients and visitors to Council sites or participating in Council programs who are not considered volunteers
<b>HSRs</b>	Health and Safety Representatives	Members of the Health and Safety Committee
<b>HSC</b>	Health and Safety Committee	Primary method of consultation on health and safety issues within Council
<b>Workplace</b>	A place where work is carried out for a business or undertaking and includes any place a worker goes or is likely to be, while at work	All Council sites and venues
<b>Reasonably practicable</b>	See WHS Act Part 2, Para 18, Page 14	
<b>Primary duty of care</b>	See WHS Act, part 2, Para 19, Page 15	
<b>Due diligence</b>	See WHS Act Part 2 Para 27, part 5, page 29	

## 4. RESPONSIBILITIES

#### 4.1 General Manager

The General Manager must exercise due diligence to ensure that Council fulfils its health and safety obligations as a PCBU under the Work Health and Safety Act 2011. The General Manager is also an Officer under the WHS Act.

#### 4.2 Directors

Directors are considered Officers of the PCBU under the WHS Act 2011, and as such must exercise due diligence to ensure that Council complies with its WHS duties which include;

- General duties relating to health, safety, and welfare at work,
- Consultation,
- Notifying workplace incidents
- Other provisions as described in the WHS Regulations

Officers under the WHS Act shall effectively exercise due diligence on behalf of Council and must ensure that they gain, maintain or ensure;

- Up to date knowledge of WHS matters,
- An understanding of Council operations including its hazards and risks,
- Ensure that Council has available and uses appropriate resources and processes to minimise risks,
- Council has, and implements, processes for receiving, considering and responding to information regarding incidents, hazards and risks, and
- Ensure that Council complies with any duty or responsibility under the WHS Act 2011 or associated codes of practice and regulations.

Directors may also be considered workers under the WHS Act.

#### 4.3 Managers and Supervisors

The responsibilities of Managers and Supervisors of Bathurst Regional Council, contractors of Council, or other affiliated groups of Council, include, but are not limited to;

- Implement and monitor WHS policy and procedures within their work group,
- Ensure that accidents or incidents are reported within prescribed guidelines,
- Ensure that documents related to WHS are completed in full and accurately,
- Investigate all incidents within prescribed time lines,
- Actively consult on WHS matters within their workgroup,
- Identify and control workplace hazards and risks.

Managers and supervisors are also considered Workers under the WHS Act.

#### 4.4 Workers

A worker of Bathurst Regional Council as defined in the WHS Act 2011 (see para 3) duties include, but are not limited to;

- Taking reasonable care for his or her own health and safety,

- Taking reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons,
- Complying so far as reasonably able with any reasonable instruction that is given by Council to allow Council to comply with the WHS Act,
- Cooperating with any reasonable policy or procedure of Council relating to health or safety at the workplace,
- Being involved in the WHS consultation process, and
- Reporting accident incidents or near misses promptly within Councils prescribed guidelines.

#### **4.5 Others**

Persons deemed to be other persons at a workplace must;

- Take reasonable care for his or her own safety,
- Take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and
- Comply as far as the person is reasonably able, with any reasonable instruction that is given by Council to allow Council to comply with the WHS Act.

A person at a workplace must abide by the duties mentioned in this paragraph whether they have other duties under the Act or not.

#### **5 Annexes**

The following policies and procedures should be read in conjunction with this policy where appropriate;

- a. Working at heights
- b. Working in confined spaces
- c. Risk management/assessment
- d. Incident investigations
- e. WHS Consultation
- f. Working alone or in isolation
- g. Working with asbestos
- h. Operation of moving plant
- i. First aid
- j. Induction
- k. Incident reporting
- l. Contractor management
- m. Noise
- n. Dangerous goods and hazardous substances in the workplace
- o. Protective equipment
- p. Hot work
- q. Issue resolution
- r. WHS Warning notice
- s. WHS Training
- t. Elevated work platform
- u. Alcohol and other drugs policy
- v. Workers compensation and rehabilitation policy

#### **ASSOCIATED LEGISLATION**

This policy complements other legislation and where it is silent on matters referred to in the following legislation such matters must be followed in accordance with the legislation.

- Local Government (State) Award 2010
- Work Health Safety Act 2011

\_\_\_\_\_  
**D J Sherley**  
**GENERAL MANAGER**

\_\_\_\_\_  
**Date**

#### **TABLE OF AMENDMENTS**

<b>Date</b>	<b>Officer</b>	<b>Amendments</b>
5.12.11	SO	New policy

### 3.16. T

<b>POLICY:</b>	TELEVISION AND FILM PRODUCTION SHOOTS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #8.3.6 Council 15 June 2022 Resolution Number. ORD2022-201
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>FILE REFERENCE:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>OBJECTIVE:</b>	23.00042  To provide Council with a framework for approving conditions under which film production shoots will be permitted within public areas, and to provide film production companies with an understanding of the procedures they must follow for film shoots to take place.

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Bathurst Regional Council welcomes the use of its areas for television and film production shoots. It is important that production companies understand that Council is responsible for the care, control and management of its area. This means Council's primary duty is to ensure the maintenance of resident's amenity. It is also necessary to ensure public safety and free movement while film shoots are taking place. Bearing those principles in mind guidelines have been developed to assist both the film companies and local people when film shoots are to be undertaken.

Policy: That Council when in receipt of an application for a film and television shoot will have regard to the following principles:

1. Observance of established guidelines and statutory requirements
2. Community considerations
3. Protection of public assets
4. Recognition and benefits to Bathurst.
5. Compliance with insurance requirements
6. Compliance with traffic management requirements

Council will process film and television shoot applications in line with established guidelines.

Council will continue to waive fees normally charged for filming in a public place as an incentive for film and television shoots. This waiving of fees does not apply for the use of Mount Panorama.

<b>POLICY:</b>	TEMPORARY WEIR ON THE MACQUARIE RIVER
<b>DATE ADOPTED:</b>	Director Engineering Services' Report #9.3.4 Council 18 October 2023 Resolution No. ORD2023-317  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	32.00021
<b>OBJECTIVE:</b>	Future of temporary weir on Macquarie River

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That Council not re-establish the temporary weir on the Macquarie River, unless future legislation permits **and further** that the existing concrete structure would remain intact.



<b>POLICY:</b>	TRANSPORT – CORRIDOR OVER THE BLUE MOUNTAINS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	07.00017, 41.00089
<b>OBJECTIVE:</b>	To continue to lobby for an upgrade of the transport corridor over the Blue Mountains.

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Council advise the Bells Line Expressway Group, CENTROC and the Tri-Government Blue Mountains Access Lobby Group of its continuing support for the upgrading of the Bells Line of Road route as outlined in the Maunsell McIntyre Report, Option 1B as follows:

**Maunsell  
McIntyre**

### 8.3 Option 1

#### 8.3.1 Description

Option 1 represents a road built to motorway or near motorway standards over its full length. This implies a 4 lane, dual carriageway structure with 3m wide breakdown lanes on the outer edges.

The terrain is steep and mountainous over the eastern half of the route. For a 6km section near Mt Tomah the road must follow a narrow ridge which requires the curve radii to be reduced to 100kph standard in order for the road to stay on the ridge.

A 1.29km long section of tunnel would be required under Mt Tomah to accommodate a four lane road. In the tunnel the road cross section is assumed to reduce to 4 lanes without breakdown lanes for economy. Twin tunnels are envisaged, one for each direction of travel. The existing highway could be used to maintain access to properties, including Mt Tomah Botanical Gardens, and as a bypass for vehicles normally prohibited in tunnels, such as those carrying flammable cargo.

Gradients are significant for loaded truck traffic on the existing road that has grades up to 13%. Option 1 limits gradients to 7% or less, except at one location with 8%, which is a significant improvement.

#### 8.3.2 Alternative Alignments

Alternative alignments were assessed for several sections of the route. Trial design and costs were prepared for each of them, using the same design standards. Alternative sections can be compared between a few common points along the route.

The alternative sections are shown in Figure 8.2 and are as follows.

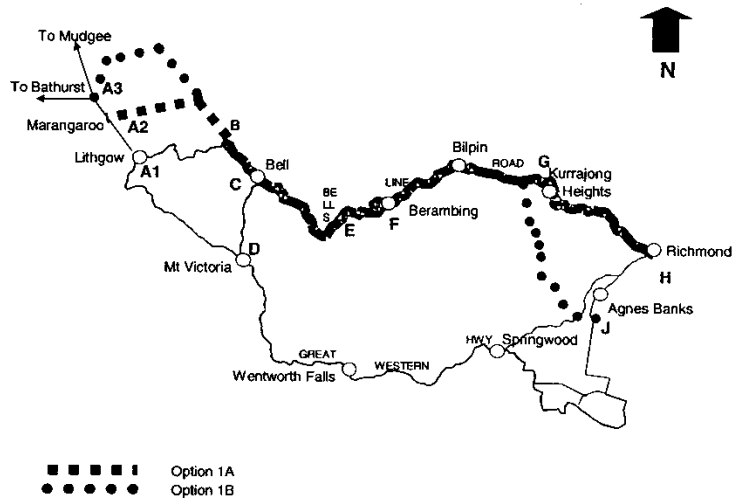
##### Lithgow Bypasses

Two possibilities exist to go around to the north of Lithgow:

- Southern route, new route leaving GWH at Marangaroo and climbing up to the Newnes Plateau.
- Northern route, new route leaving the Mudgee road (MR 55) near Wallerawang and climbing up to the Newnes Plateau by

**Berambing – Bilpin Area**

The existing road could be widened to 4 lanes, or alternatively a separate alignment could be used which would leave facilities along the existing road untouched. A new alignment would be roughly parallel to the existing road.



**Figure 8.2: Diagram of Options 1A and 1B**

**Kurrajong Heights to Nepean River**

The existing road up Bellbird Hill is too steep to be upgraded to the preferred standard. Two alternatives were considered:

- Alternative to Bellbird Hill involving a longer route to the south that avoids the S bends and permits flatter gradients for the steep sections. This route would still go through Kurrajong Heights township.
- An alternative route from a point west of Kurrajong Heights that runs south to near Bowen Mountain and crosses the Nepean River upstream of the Yarramundi Bridge. This route bypasses Kurrajong Heights township, Kurrajong and North Richmond.

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bypasses Kurrajong Heights township, Kurrajong and North Richmond.

### 8.3.3 Costs

The MXRoad model provided a preliminary alignment and basic earthworks quantities for the various alternatives for Option 1. Lengths of large bridges were also estimated. Drawings of the alignment at 1:25,000 scale are given in a separate volume of A3 size drawings.

Costs were based on the basic quantities with allowances for standard construction features and finishes, safety, drainage, signage, lighting, environmental management and project management at representative rates.

Table 8.6 summarises costs for two complete routes using different alternative sections for the Lithgow bypass and the Kurrajong Heights – Nepean River section.

**Table 8.6: Preliminary Costs for Option 1 Alternatives**

Section		Option 1A			Option 1B		
		length (m)	Cost \$ mill	Av rate \$/mill /km	length (m)	Cost \$ mill	Av rate \$/mill /km
Southern Lithgow bypass to Newnes Junction	A2 – B	18.0	309	17.2			
Northern Lithgow bypass to Newnes Junction	A3 – B				21.8	300	13.8
Newnes Junction to Bell	B-C	5.4	70	12.9	5.4	70	12.9
Bell to Mt Tomah	C – E	18.1	371	20.5	18.1	371	20.5
Mt Tomah - Berambing, incl 1.3km tunnel	E - F	3.1	227	73.6	3.1	227	73.6
Berambing to Kurrajong Hts	F - G	18.4	208	11.3	18.4	208	11.3
Kurrajong Hts to Richmond	G - H	19.1	275	14.4			
Kurrajong Hts to Agnes Banks	G - J				18.1	339	18.7
<b>Total</b>		<b>82.0</b>	<b>1,459</b>	<b>17.8</b>	<b>84.8</b>	<b>1,514</b>	<b>17.8</b>

To construct a freeway-standard link from Agnes Banks to the M2/Western Sydney Orbital at Blacktown would cost about \$260 million, excluding land, or a total of about \$1,770 million.

### 8.4 Option 2

Preliminary design results for Option 2 indicate that minimum design standards may need to be reduced to 70kph in order to retain the use of most of the existing road pavement. If higher standards were imposed, the length of reconstruction would increase substantially with associated high costs.

### 3.17. V

<b>POLICY:</b>	VANDALISM
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #9.2.5 Council 21 June 2023 Resolution No. ORD2023-154
	Director Corporate Services & Finance's Report #8.2.5 Council 19 May 2021 Resolution No: ORD2021-151 Council 16 May 2021 Resolution No: ORD2021-169
	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	20.00045
<b>OBJECTIVE:</b>	To minimise vandalism in the city

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That Council offer a reward of up to \$2,000 for information leading to the conviction of people found vandalising Council property, and further, that Council, without exception, take all legal steps available to it to prosecute people found vandalising Council Property.

### 3.18. W

<b>POLICY:</b>	WALKWAYS – STRATEGY FOR WALKWAY REQUIREMENTS AND CLOSURES
<b>DATE ADOPTED:</b>	Director Engineering Services' Report #9.3.4 Council 18 October 2023 Resolution No. ORD2023-317  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	28.00016
<b>OBJECTIVE:</b>	To put in place a strategy for dealing with proposed walkway closures

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That Council:

- (a) adopt a strategy for walkway closures, as indicated on the list held in the Environmental, Planning and Building Services, Engineering Services and Corporate Services sections.
- (b) adopt, as policy, that all costs associated with walkway closures be borne by the recipients of the adjoining walkway, through consolidation, or if the application to Land NSW is rejected, the costs be borne by the residents proposing the closure.



<b>POLICY:</b>	WASTE MANAGEMENT – DOMESTIC COLLECTION SERVICES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Engineering Services Report #3 Council 16 August 2006 Minute Book No. 9921
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	14.00052
<b>OBJECTIVE:</b>	To establish parameters for the provision of Domestic Waste Management Services in Bathurst.

That:

- (a) Council provide domestic waste management services to residential and rural residential zoned land;
- (b) Council provide domestic waste management services to industrial zoned land where requested and it is economic to do so;
- (c) Council provide domestic waste management services to land zoned rural general and market garden if it is economic to do so;
- (d) that the extensions to the DWMS for outlying areas only be implemented where there is at least 70% ratepayer agreement to the introduction of the service from the edge of the existing service area to the end of the proposed service; and
- (e) that Council provide domestic waste management services to non rateable land where requested and it is economic to do so.
- (f) that Council provide a replacement mobile garbage bin, once in a calendar year without charge, where a bin of a Pensioner with a Pension Concession Card has been destroyed by a third party.

<b>POLICY:</b>	WATER – LEVYING OF WATER RATES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Corporate Services & Finance’s Report #1 Council 2 November 2005 Minute Book No. 9693/9694
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (Formerly “Rates – Levying of Water Rates”)
<b>FILE REFERENCE:</b>	16.00065
<b>OBJECTIVE:</b>	To establish guidelines for the levying of Annual Charges for water in connection with water supply.

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Annual charges for water supply services shall be levied on:

1. land which is connected to a water pipe of the Council and supplied with water from that water pipe of the council OR,
2. land that is situated within 225 metres of a water pipe of the council whether the land has a frontage or not to the public road (if any) in which the water pipe is laid, although the land is not actually supplied with water from any water pipe of the council (subject to land which is prevented or prohibited from connection by the provisions of paragraph b.),
  - a. PROVIDED THAT land which is not connected to council’s water supply and which shall not be subdivided or used for residential, industrial or commercial purposes in accordance with Council’s current Town Planning Instrument, shall be exempt from annual charges for water,
  - b. AND FURTHER PROVIDED THAT, in the case of commercial strata properties used only for the purposes of self storage facilities or car parking spaces, where water supply services are not connected to the individual strata units, water supply annual charges shall be levied on the Body Corporate of the strata plan and not on the individual strata unit owners in accordance with Council’s Revenue Policy for water and sewer access charges.
  - c. AND ALSO PROVIDED THAT owners of land along the water supply main to Perthville who do not require a connection to the Perthville water supply main at the present time shall only be permitted to connect at a later date, subject to payment of:
    - i. a water connection fee; and
    - ii. an amount equivalent to the water annual charges that would have been levied for the preceding 5 years for that property,

3. HOWEVER, where water is supplied by standpipe, a charge relating to water supply may not be levied on land unless water could be supplied to some part of the land from a standpipe at least 1 metre in height from the ground level, if such a pipe were laid and connected to the Council's mains.

<b>POLICY:</b>	WATER – WINBURNDALE LINE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance’s Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	32.00004
<b>OBJECTIVE:</b>	To outline Council’s position in relation to the Winburndale Water Supply.

Council’s original water source was Winburndale Dam, which was constructed in the early 1930s. A woodstave pipeline was also constructed at that time to deliver the water into the city.

Council has a current licence, with conditions, from the NSW Office of Water for the dam and the pipeline.

Council complies with the licence conditions, and in particular, condition 4 and 5 which states:

- (4) *In the event of flows entering the storage when water levels in the dam are below crest level, the licensee must release a flow through the vale referred to in condition (2) that will release:*
- a. *20% of the increment of storage conserved in the preceding flow event or*
  - b. *50% of the increment of storage conserved in the preceding flow event when a drought declaration has been made by the NSW Government or*
  - c. *80% of the increment of storage conserved in the preceding flow event when exceptional circumstances funding has been announced by the Commonwealth Government in response to prolonged drought.*

*These flows are only required to be released upon request from the Department of Natural Resources when inflows have been recorded not more than 28 days before the request.*

- (5) *When the valve referred to in condition (2) is operated in accordance with condition (4) the Licensee may close the valve when flows in Winburndale Rivulet have reached the confluence with the Macquarie River.*

The following statement summarises Council’s position with regard to Winburndale water. Council will meet all other conditions of the licence regarding the release of water when inflows and water level rises occur.

*There is a view that many of those requesting a flow of water for conservation are in fact seeking water which they do not have to pay for. Throughout Australia's history, rivers and streams have dried up in droughts and the wildlife has coped.*

Council's position, in regard to the possibility of supplying Hillview Estate, Walang with Winburndale Water is that as there are liability and licensing issues, it will not be possible to supply or use Winburndale water for Hillview Estate.

<b>POLICY:</b>	WATER SUPPLY – MINIMUM PRESSURE STANDARDS
<b>DATE ADOPTED:</b>	Director Engineering Services' Report #9.3.4 Council 18 October 2023 Resolution No. ORD2023-317  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477
<b>ORIGINAL ADOPTION:</b>	Director Engineering Services Report #4 Council 18 August 2004 Minute Book No. 9314, 9315
<b>FILE REFERENCE:</b>	37.00152
<b>OBJECTIVE</b>	To provide a minimum standard for water pressure for future development

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The minimum static head required to the highest point on each lot is 30m, calculated when the reservoirs are one-third depleted.

The main shall also be capable of delivering a peak instantaneous demand of 0.15L/s to each lot, at a minimum head of 15m measured at the property water meter, with the service reservoirs two-thirds depleted.