



# AGENDA

## CULTURE, ECONOMY AND CORPORATE COMMITTEE

### 11 OCTOBER 2021

MEMBERSHIP: Councillors J Diffey, V Etheridge, D Grant, A Jones, S Lawrence, G Mohr, K Parker and J Ryan.

The meeting is scheduled to commence at .

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<b>CEC21/31 LEAVE OF ABSENCE (ID21/1760)</b>	
<b>CEC21/32 CONFLICTS OF INTEREST (ID21/1799)</b>	
<b>CEC21/33 DRTCC - COVID-19 RECOVERY OFFER EXTENSION (ID21/1636)</b> The Committee had before it the report dated 22 September 2021 from the Manager Dubbo Regional Theatre and Convention Centre regarding DRTCC - COVID-19 Recovery Offer Extension.	3
<b>CEC21/34 POWER OF ATTORNEY FOR THE CHIEF EXECUTIVE OFFICER (ID21/1757)</b> The Committee had before it the report dated 30 September 2021 from the Executive Manager Governance and Internal Control regarding Power of Attorney for the Chief Executive Officer.	9
<b>CEC21/35 DELEGATION OF AUTHORITY TO THE CHIEF EXECUTIVE OFFICER (ID21/1758)</b> The Committee had before it the report dated 30 September 2021 from the Executive Manager Governance and Internal Control regarding Delegation of Authority to the Chief Executive Officer.	21

<b>CEC21/36</b>	<b>INVESTMENTS UNDER SECTION 625 OF THE LOCAL GOVERNMENT ACT - SEPTEMBER 2021 (ID21/1627)</b>	29
	The Committee had before it the report dated 1 October 2021 from the Chief Financial Officer regarding Investments Under Section 625 of the Local Government Act - September 2021.	



DUBBO REGIONAL  
COUNCIL

## REPORT: DRTCC - COVID-19 Recovery Offer Extension

**AUTHOR:** Manager Dubbo Regional Theatre and  
Convention Centre  
**REPORT DATE:** 22 September 2021  
**TRIM REFERENCE:** ID21/1636

### EXECUTIVE SUMMARY

Dubbo Regional Theatre and Convention Centre (DRTCC) including Wellington Civic Centre (WCC) re-opened to the public on 1 July 2020 after being closed for three months. DRTCC implemented the COVID-19 Recovery Offer from 14 July 2020 to 31 December 2020. The Recovery Offer consisted of discounted venue hire to reflect the reduced capacity in numbers directed by the NSW Health Order. The discount applied to professional/commercial, performing arts businesses, community/not-for-profit groups and schools/registered charities. The discount related to venue hire only and did not include public holidays or other fees and charges listed in the revenue policy. The discount did not apply to Film Screenings, which is substantially discounted.

The Recovery Offer was extended to 31 March 2021 with the ability to extend to 30 September 2021 if need be. Council approved that the percentage discount would be in-line with the percentage of capacity restrictions as per the NSW Health Order with percentage variations approved by the Director, Culture and Economy.

The aim of the Recovery Offer was to encourage hirers to proceed with their event, entice new hirers to book their event, instil consumer confidence and increase utilisation of the venue spaces. The Recovery Offer has been successful in terms of increased venue utilisation, income from venue hire, labour and equipment, client goodwill and a much-needed stimulus to the local economy. Dubbo Regional Council led the way with other regional venues adopting a similar recovery program.

The Recovery Offer expired on 30 September 2021. Based on the number of tentative bookings until the end of the year and capacity restrictions still at 75%, it is recommended that the Recovery Offer extend to 31 December 2021. Should capacity restrictions lift to allow full capacity within four weeks of the event, then full fees and charges would apply. Venue hire rates to return to 100% as of 1 January 2022 regardless of the capacity restrictions. The standard penalty will apply as per the cancellation policy for events that are cancelled or postponed after 1 January 2022. This is in line with the position taken by other regional venues in New South Wales. This would ensure the venue hire fee is fair and equitable for both client and venue and aligned with industry standards for the roadmap out of lockdown.

## **STRATEGIC ALIGNMENT**

The 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes five principal themes and a number of strategies and outcomes. This report is aligned to:

Theme:	3 Economy
CSP Objective:	3.1 Visitor economy growth is supported through product development, enhancement and strategic management
Delivery Program Strategy:	3.1.5 Events that provide for activities that foster cultural and recreational opportunities and community interaction are supported

## **FINANCIAL IMPLICATIONS**

Potential financial implication to Council is limited given all associated fees and charges, such as staff labour, products and services remain the same. The Centre is currently not open for business but has been an integral part of the COVID-19 Support Operation and therefore operational costs of maintaining the asset remain unchanged regardless of the event schedule. The venue hire discount is to stimulate hirer activity and therefore stimulate other hirer income streams. DRTCC is also eligible to apply for the Create NSW COVID-19 Support Package for a percentage of lost income from cancellations, postponements and capacity restrictions.

## **POLICY IMPLICATIONS**

There are no policy implications arising from this report.

## **RECOMMENDATION**

- 1. That the information contained within the report of the Manager Dubbo Regional Theatre and Convention Centre, date 22 September 2021, be noted.**
- 2. That the COVID-19 Recovery Offer be extended to clients from 1 October 2021 to 31 December 2021, depending on the capacity restrictions of Public Health Orders due to COVID-19.**
- 3. That the COVID-19 Recovery Offer consist of a percentage discount for the Dubbo Regional Theatre and Convention Centre, including Wellington Civic Centre, for professional/commercial, performing arts businesses, community/not-for-profit and schools/registered charity, noting that this does not include public holidays. All other fees and charges remain the same.**
- 4. That any changes to the percentage discount in relation to changes in the Public Health Order will be approved by the Director Culture and Economy.**
- 5. That Council cease the COVID-19 Recovery Offer should full capacity of venues be allowed within four weeks of an event.**
- 6. That full venue hire fees apply as per the Revenue Policy as of 1 January 2022.**

*Linda Christof*

Manager Dubbo Regional Theatre and Convention Centre

## BACKGROUND

On 20 March 2020, the COVID-19 Government response led to the closure of theatres and function centres across Australia and resulted in events being cancelled or postponed by hirers and producers. DRTCC re-opened to the public on 1 July 2020, at that time the allowable capacity of the 500 seat theatre under the NSW Health Order was 17.8% increasing to 50% and then 75%. The success of the current Recovery Offer has been demonstrated through event and show activity during this time.

Feedback from local dance schools in December 2021 confirmed that the discounted venue hire fee enabled them to add additional performance days at reduced capacity to ensure families did not miss out on seeing their children perform.

Other key hirers that proceeded solely based on the discounted venue hire include:

- Bluey's Big Play
- The Rock Show
- The Rubens
- Sheriff's Office NSW
- Western Health District Forum
- Wellington Eisteddfod

Quote from Bob Collier, President of Wellington Eisteddfod, regarding the discounted venue hire fee: *'made it easier for us to put on this event despite the Covid restrictions. At least many competitors had the opportunity to be able to perform and receive recognition for their own personal talents.'*

The Dubbo Theatre Company made the difficult decision to proceed with six shows of their musical in July 2021 with 50% capacity. The deciding factor was the discounted venue hire fee to help offset substantial production costs. All six shows sold out with an additional two shows added. In total, 2000 people attended the performances with an economic multiplier effect flowing on to local cafes, shops and restaurants.

On 11 August 2021, the region entered a snap lockdown and the DRTCC and WCC were closed to the public with a roadmap out of lockdown marked for 11 October 2021. There are 33 tentative and confirmed events from 11 October to 22 December 2021, many of which are dependent on the COVID-19 Recovery Offer.

Orange Civic Theatre, Capitol Theatre Tamworth, The Glasshouse Port Macquarie, Bathurst Memorial Entertainment Centre and Wagga Wagga Civic Theatre are some of the regional theatres in New South Wales that implemented a similar venue hire discount for hirers.

## REPORT

Industry leaders are uncertain when the public health order will allow 100% capacity. It is also noted that the volatile nature of the virus means that capacity may decrease if outbreaks occur in the region. This uncertainty of change allows for an opportunity for DRTCC and WCC

to continue to be a regional leader through continuation of visitation and activation of the facility.

It is recommended that council continue to provide support to users to increase patronage of the facility. The extension of the Recovery Offer will ensure DRTCC and WCC will continue to receive venue hire income, ticket sale income and continually increase consumer confidence in the entertainment industry. DRTCC has submitted an application to the Create NSW COVID-19 Support Package to recoup 15-35% of lost income due to cancellations, postponements and restrictions on capacity.

### **COVID-19 Recovery Offer**

The report recommends a percentage discount that correlates to the percentage capacity permitted by the NSW Health Order. This will ensure a fair and equitable discount reflective of the numbers permitted. It will also ensure the appropriate discount can be efficiently applied when capacity increases or decreases and there is no confusion by the client or the venue.

Parameters of the Recovery Offer remain the same:

- The discount applies to all hireable spaces within Dubbo Regional Theatre and Convention Centre as well as Wellington Civic Centre from Monday to Sunday.
- For professional/commercial promoters of ticketed shows, the discount is applied to venue hire or 11.5% of net box office income whichever is the greater as per the venue hire fee outlined in the revenue policy.
- Should capacity restrictions change within four weeks of the event (increase or decrease) the agreed percentage discount as per the venue hire agreement will remain. Outside of the four weeks, the percentage discount will fall in line with percentage capacity.
- The discount does not apply to Film Screenings as this fee is already discounted.
- The discount does not apply to public holidays.
- The discount applies to venue hire only and all other charges such as labour, equipment, products and services are charged as per the revenue policy.
- The client must select the appropriate venue for their anticipated numbers; for example not an event for 30 people in the 500 seat theatre.

The discount would be applicable to events contracted and deposits paid for events held between 30 September 2021 and 31 December 2021, depending on capacity restrictions at the time.

### **SUMMARY**

From 1 July 2020 to 30 June 2021, DRTCC hosted 77 ticketed events and 100 business/community events even though DRTCC was closed for three months. Much of this successful recovery and activation is due to the COVID-19 Recovery Offer of discounted venue hire.

Extending the Recovery Offer allows the facilities to be responsive to Public Health Order changes, maintain consumer confidence and attract new hirers. The Director of Culture and Economy will approve any changes to venue hire discount percentages in accordance with changing capacity restrictions.

It is recommended the COVID-19 Recovery Offer be extended from 30 September 2021 to 31 December 2021. Should capacity restrictions lift to allow full capacity within four weeks of any show or event, then full fees and charges will apply. Full fees and charges will also apply as of 1 January 2022.





DUBBO REGIONAL  
COUNCIL

## REPORT: Power of Attorney for the Chief Executive Officer

**AUTHOR:** Executive Manager Governance and Internal Control

**REPORT DATE:** 30 September 2021

**TRIM REFERENCE:** ID21/1757

### EXECUTIVE SUMMARY

Council has the ability to grant, by resolution, Council's power of attorney to the Chief Executive Officer (CEO) allowing signing of documents following formal resolutions by Council. On 1 October 2021, Council's permanent CEO, Mr Murray Alexander Wood, as appointed by Council on 28 September 2021, began his five year term.

The power of attorney is prescribed, and not irrevocable or an enduring power of attorney. That is, the power of attorney can be terminated, revoked or suspended by Council at any time. The power of attorney must be registered for any dealings affecting land with the Land and Property Information Authority of NSW.

As Council's incoming Chief Executive Officer, Murray Alexander Wood will be delegated Council's power of attorney commencing immediately. Council may terminate this power of attorney and reissue it to Council's next Chief Executive Officer in due course should it wish to do so.

The newly instated Council, taking office after the Local Government Elections in December 2021, will review its decision to grant Council's power of attorney to the Chief Executive Officer.

### STRATEGIC ALIGNMENT

The 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes five principal themes and a number of strategies and outcomes. This report is aligned to:

Theme: 4 Community Leadership

CSP Objective: 4.3 The resources of Council are appropriately managed

Delivery Program Strategy: 4.3.1 The organisation displays the elements of sound management and strategic planning

### FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

**POLICY IMPLICATIONS**

There are no policy implications arising from this report.

**RECOMMENDATION**

1. That the report of the Executive Manager Governance and Internal Control, dated 30 September 2021, be noted.
2. That Council extend the Power of Attorney granted to Mr Murray Alexander Wood, in effect since 11 June 2021, in accordance with the draft General Power of Attorney attached to the report as Appendix 1.
3. That the General Power of Attorney be executed under the Common Seal of the Council.
4. That Council review the delegation of Power of Attorney to the Chief Executive Officer within three months of the newly instated Council.
5. That the Chief Executive Officer report to Council every three months on all documents signed under the prescribed Power of Attorney.

*Abbey Rouse*

Executive Manager Governance and Internal Control

## REPORT

At its meeting held 3 June 2021, Council's Interim Chief Executive Officer, Mr Murray Alexander Wood, was granted Council's Power of Attorney. As Mr Wood has recently been appointed Council's permanent Chief Executive Officer, it is necessary for Council to resolve to extend Mr Wood's current Power of Attorney.

Council has the ability to grant, by resolution, Council's power of attorney to the Chief Executive Officer allowing signing of documents following formal resolutions by Council. It is recommended that Council grant the Chief Executive Officer the power of attorney to facilitate the timely implementation of decisions of Council.

Additionally, as Council enters caretaker mode on 4 November 2021 until the newly elected members of council take office in January 2022, the Chief Executive Officer will be required to act as Power of Attorney to ensure the continued function of council operations during this time.

The following information is provided to assist Councillors in making the determination as to whether power of attorney should be delegated to the Chief Executive Officer:

- a. A prescribed power of attorney can be granted to the Chief Executive Officer to enable him/her to sign documents to give effect to resolutions of the Council made pursuant to its non-delegable functions under Section 377(1) of the Act.
- b. A prescribed power of attorney can be granted to the Chief Executive Officer to enable him/her to sign documents to give effect to functions of the Council which the Council has validly delegated to the Chief Executive Officer under Section 377(1) of the Act.
- c. If the Council resolves to grant a prescribed power of attorney to the Chief Executive Officer, the prescribed power of attorney should be registered in the General Register of Deeds at the NSW Land and Property Management Authority (LPMA) to enable the Chief Executive Officer to sign documents of title for registration at the NSW LPMA.
- d. The signing of documents by the Chief Executive Officer under a prescribed power of attorney is a more expeditious way of implementing decisions of the Council rather than by affixing the Seal of Council to documents in the presence of two people (including at least one Councillor) in accordance with the requirements of clause 400 of the Regulation, or returning matters to Council meetings for final resolutions.
- e. If the Council grants a prescribed power of attorney to the Chief Executive Officer, the prescribed power of attorney will not authorise the Chief Executive Officer to execute a document or do any act which will confer a benefit on the Chief Executive Officer unless the prescribed power of attorney expressly authorises the conferral of the benefit: Section 12(1) of the POA Act.
- f. The Chief Executive Officer will maintain a register of documents signed under the prescribed power of attorney and report to Council every three months at its meetings on each document which the Chief Executive Officer has signed pursuant to the prescribed power of attorney.
- g. The Council is free to terminate or suspend the prescribed power of attorney at any time after giving the prescribed power of attorney to the Chief Executive Officer.

- h. An instrument revoking or terminating a registered power of attorney may also be registered by the Registrar-General in the General Register of Deeds.

The Powers of Attorney Act 2003 (POA Act) includes a provision for Councils to grant a power of attorney. The POA Act defines a “principal” in Section 3(1) as “the person giving the power”. “Person” is not defined in the POA Act, but is defined in Section 21(1) of the *Interpretation Act 1987* as including “an individual, a corporation and a body corporate or politic”. Under Section 220(1) of the *Local Government Act 1993 (the Act)*, a council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual, both in and outside the State. Consequently, councils fall within the definition of a “principal” for the purposes of the POA Act and can give powers of attorney to individuals.

Section 377(1) of the Act provides that a council may, by resolution, delegate to its Chief Executive Officer or any other person or body, any functions of the council other than the functions listed in that Section. The functions listed in Section 377(1) of the Act must only be exercised by a council. In the exercise of these functions, such as the sale and purchase of land or the borrowing of money, ordinarily a council enters into a contract, agreement or loan facility by affixing its seal to the relevant document in the manner required by clause 400 of the *Local Government (General) Regulation 2005 (the Regulation)*. There is no reason why in the exercise of its non-delegable functions under Section 377(1) of the Act, a council cannot resolve that the signing of documents which give effect to a resolution made by the Council be effected by its Chief Executive Officer. Making such a resolution does not result in a delegation of non-delegable functions, but simply provides for a more efficient process for the signing of relevant documents than by affixing the seal of the Council to those documents.

Additionally, in circumstances where a council, by resolution, delegates functions (other than those functions listed in Section 377(1) of the Act – such as the delegable functions of creating easements or leases), to its Chief Executive Officer or any other officer of the council, a council can resolve that the signing of documents which give effect to the delegated functions be done under power of attorney.


The POA Act permits the granting of prescribed powers of attorney, irrevocable powers of attorney and enduring powers of attorney. If Council resolves to give a power of attorney to the Chief Executive Officer, the power of attorney should be a prescribed power of attorney and not an irrevocable or enduring power of attorney. Irrevocable powers of attorney remain effective despite, among other things the bankruptcy, mental incapacity or death of the principal. Enduring powers of attorney remain effective, even if the principal lacks capacity through loss of mental capacity, after execution of the power of attorney. Such powers of attorney are not relevant where the principal is a body politic such as Council.

Although, the POA Act does not expressly empower a principal to terminate, revoke or suspend a prescribed power of attorney, it is clear from Division 2 of Part 6 of the POA Act and from Schedule 1 of the POA Act that a principal can terminate or revoke a prescribed power of attorney. A prescribed power of attorney terminates on the death or mental incapacity of the attorney and may be revoked by the principal at any time by written notice.

The Council will be free to terminate, revoke or suspend a prescribed power of attorney at any time after giving a prescribed power of attorney to the Chief Executive Officer.

Powers of attorney may be registered, but must be registered for any dealings affecting land in accordance with Section 52 of the POA Act. If any registered power of attorney is terminated, such termination can be registered.

Appendices:

[1](#)  Draft - Power of Attorney - Murray Wood - October 2021

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**DUBBO REGIONAL COUNCIL  
(Principal)**

**AND  
MURRAY ALEXANDER WOOD**

**(Attorney)**

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**GENERAL POWER OF ATTORNEY**

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**GENERAL POWER OF ATTORNEY**

A general power of attorney is a legal document that allows you, the principal, to nominate one or more persons, referred to as attorneys, to act on your behalf. A general power of attorney gives the attorney the authority, if you choose, to manage your legal and financial affairs, including buying and selling real estate, shares and other assets for you, operating your bank accounts, and spending money on your behalf.

A general power of attorney ceases if you lose your mental capacity after its execution. If you wish the power of attorney to continue if you lose your mental capacity, use the enduring power of attorney prescribed form. An attorney under a general power of attorney cannot make decisions about your lifestyle or health. These decisions can only be made by a guardian, whether an enduring guardian appointed by you or a guardian appointed by the New South Wales Civil and Administrative Tribunal or the Supreme Court.

You may set whatever conditions and limitations on your attorney that you choose. An attorney must always act in your best interest. If your attorney does not follow your directions or does not act in your best interest, you should revoke the power of attorney. You or someone on your behalf should inform the attorney of the revocation, preferably in writing. The attorney must then immediately cease to act as your attorney. If anyone else, such as a bank, has been advised about the power of attorney, that person or entity should also be informed of the revocation.

The important information set out at the end of this form includes notes to assist in completing this form and more fully explains the role and responsibilities of an attorney.

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**GENERAL POWER OF ATTORNEY**

**1. Appointment of attorney by the principal**

**DUBBO REGIONAL COUNCIL (Principal)**

of Civic Administration Building, Church Street, Dubbo, NSW 2830, appoints

**MURRAY ALEXANDER WOOD** of

[REDACTED]

to be its attorney (**Attorney**).

**Nomination of substitute attorney**

Not applicable

**2. Powers**

The Attorney may exercise the authority conferred on him by Part 2 of the Powers of Attorney Act 2003 to do anything on behalf of the Principal anything which the Principal may lawfully authorise an attorney to do. The Attorney's authority is subject to the conditions and limitations specified in Part 3 of this document.

**Additional powers**

Not applicable

**3. Conditions and limitations**

The following limits and/or conditions apply to the authority of the Attorney:

(a) This power of attorney is limited to the execution of documents which give effect to:

(i) resolutions of the Principal where resolutions are required for the exercise of any function of the Principal; and

(ii) functions of the Principal which have been delegated to the Attorney,

in accordance with the Local Government Act 1993.

(b) This power of attorney does not operate as a delegation of any function of the Principal for the purposes of Section 377 of the Local Government Act 1993.

**4. Commencement**

This power of attorney operates immediately.



5. Signing by principal to give effect to the appointment of the attorney

<b>The Common Seal of DUBBO</b>	)	
<b>REGIONAL COUNCIL was</b>	)	
<b>hereunto affixed on this</b>	)	
day of _____ 2021 pursuant		_____ Mayor
to the authority conferred by		
Council resolution made		
2021 in the presence of the		_____ Full Name
Mayor and Deputy Mayor:		
_____ Deputy Mayor		
_____ Full Name		

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**6. Attorney responsibilities**

Your attorney must do the following:

- (a) Keep your money and property separate from the attorney's money and property;
- (b) Keep reasonable accounts and records of your money and property;
- (c) Not benefit from being an attorney, unless expressly authorised by you;
- (d) Always act in your best interests; and
- (e) Always act honestly in all matters concerning your legal and financial affairs.

Failure to do so may incur civil and/or criminal penalties.

NSW LRS OFFICE USE ONLY

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### IMPORTANT INFORMATION

- A power of attorney is an important and powerful legal document. You should get legal advice before you sign it.
- It is important that you trust the person you are appointing as attorney to make financial decisions on your behalf. Your attorney must be over 18 years old and must not be bankrupt or insolvent. If your financial affairs are complicated, you should appoint an attorney who has the skills to deal with complex financial arrangements.
- A power of attorney cannot be used for health or lifestyle decisions. You should appoint an enduring guardian under the Guardianship Act 1987 if you want a particular person to make these decisions. For further information, contact the New South Wales Civil and Administrative Tribunal or New South Wales Trustee and Guardian.
- Clause 2 of the power of attorney contains powers which will permit your attorney to use your money and assets for the attorney or anyone else as provided. You include those provisions in clause 2 if you want your attorney to have those powers.
- This power of attorney is for use in New South Wales only. If you need a power of attorney for interstate or overseas, you may need to make a power of attorney under their laws. The laws of some other states and territories in Australia may give effect to this power of attorney. However, you should not assume this will be the case. You should confirm whether the laws of the state or territory concerned will in fact recognise this power of attorney.
- Your attorney must keep the attorney's own money and property separate from your money and property, unless you are joint owners, or operate joint bank accounts. Your attorney should keep reasonable accounts and records about your money and property. The cost of providing and maintaining these records by the attorney may be recoverable from you.
- If your attorney is signing certain documents that affect real estate, the power of attorney must be registered at NSW Land Registry Services. Please contact NSW LRS on 1300 052 637 to see whether the power of attorney must be registered.
- An attorney must always act in your best interest. If your attorney does not follow your directions or does not act in your best interest, you should consider revoking the power of attorney. If you revoke the power of attorney you should notify the attorney, preferably in writing, that they are no longer your attorney. The attorney must stop acting immediately once they have knowledge of the revocation.
- This power of attorney does not automatically revoke earlier powers of attorney made by you. If you have made an earlier power of attorney that you do not want to continue, you must revoke the earlier power of attorney. It is advisable that you notify the attorney, preferably in writing, of the revocation, if you have not already done so. You should also give notice of the revocation to anyone who is aware of the earlier power of attorney, such as a bank.

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**NOTES FOR COMPLETION**

**Joint attorneys**

If you appoint more than one attorney, you should indicate whether the attorneys are to act jointly or jointly and severally. Attorneys who are appointed jointly are only able to act and make decisions together.

Attorneys who are appointed jointly and severally — that is, together or separately — are able to act and make decisions independently of each other. However, you can specify that a simple majority, if you appoint three or more attorneys, must agree before they can act.

**Substitute attorney/s**

If you appoint a substitute attorney, the substitute attorney will only have authority to act as your attorney if the first appointed attorney dies, resigns or otherwise vacates their position.

You can specify for whom the substitute is to act — for example, if you appoint A and B as attorneys and X and Y as substitutes, you can specify that X takes A's place if A vacates office.

**Attorney vacates office**

Section 5 of the Powers of Attorney Act 2003 states that there is a vacancy in the office of attorney if the attorney dies, resigns, becomes bankrupt, loses mental capacity or the authority to act is revoked.

If you have appointed a substitute attorney, it may be helpful that some sort of documentation evidencing the vacation of the original attorney is attached to this power of attorney when that vacancy happens. This will assist to satisfy a third party that the substitute attorney is entitled to act for you.

**Further information**

For information on powers of attorney, the attorney's duties and registration, contact NSW Land Registry Services [www.nswlrs.com.au](http://www.nswlrs.com.au), the New South Wales Trustee and Guardian [www.tag.nsw.gov.au](http://www.tag.nsw.gov.au), a solicitor or a trustee company.

The New South Wales Government's Planning Ahead Tools website [www.planningaheadtools.com.au](http://www.planningaheadtools.com.au) provides up-to-date information and resources about powers of attorney, enduring guardianship, wills and advanced care planning.



## REPORT: Delegation of Authority to the Chief Executive Officer

**AUTHOR:** Executive Manager Governance and Internal Control  
**REPORT DATE:** 30 September 2021  
**TRIM REFERENCE:** ID21/1758

### EXECUTIVE SUMMARY

A Council may delegate to the Chief Executive Officer any of its functions other than those functions specifically detailed in Section 377. Section 380 of the Local Government Act requires that each Council must review all its delegations during the first 12 months of each term of office. The proposed delegations to the Chief Executive Officer (**Appendix 1**) will be reviewed in 2022.

### STRATEGIC ALIGNMENT

The 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes five principal themes and a number of strategies and outcomes. This report is aligned to:

Theme: 4 Community Leadership  
CSP Objective: 4.3 The resources of Council are appropriately managed  
Delivery Program Strategy: 4.3.1 The organisation displays the elements of sound management and strategic planning

### FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

### POLICY IMPLICATIONS

There are no policy implications arising from this report.

### RECOMMENDATION

1. That the Delegation of Authority to the interim Chief Executive Officer be as contained in the document attached to the report of the Executive Manager Governance and Internal Control, dated 30 September 2021 as Appendix 1.
2. That, as per Section 380 of the Local Government Act, a review of delegations be undertaken within 12 months of the declaration of results of the 2021 Local Government Elections.

*Abbey Rouse*

Executive Manager Governance and Internal Control

## REPORT

Section 377 of the Local Government Act, 1993 enables the Council to delegate the functions of the Council to the Chief Executive Officer. This section also specifies various functions such as making of a rate, fixing of a fee, borrowing of money, voting of money for expenditure and the acceptance of tenders where those services are already provided by council staff cannot be delegated.

The delegation of functions to the Chief Executive Officer enables the organisation to meet the needs of residents and other stakeholders in an effective and efficient manner. It means that decisions which reflect Council's policies, standards, codes and management and other plans can be made at appropriate levels within the Organisation. It also enables staff to be authorised to undertake functions under other legislation.

Section 380 of the Act provides that each council must review all its delegations during the first 12 months of each term of office. A review of the delegations to the Chief Executive Officer (**Appendix 1**) will be undertaken within 12 months of the declaration of results of the 2021 Local Government Elections.

### Appendices:

[1](#) Delegation of Authority to the Chief Executive Officer - October 2021



# Delegation of Authority to the Chief Executive Officer

OCTOBER 2021



<b>Document Revision History</b>	
<b>Description</b>	<b>Date</b>
Amended and adopted following merger of Dubbo City and Wellington councils	May 2016
Amended as a result of delegations with respect to the Defined Asset Management Policy as adopted August 2017	August 2017
Adopted by Council	26 February 2018
Updated title of General Manager to Chief Executive Officer	26 March 2018
Updated for Appointment of Acting Chief Executive Officer	22 February 2021
Reviewed for Appointment of permanent Chief Executive Officer	October 2021
<b>Notes</b>	
In accordance with Section 380 of the Local Government Act, this document will be reviewed in 2022 within the first 12 months of the new term of office.	

## **PURPOSE**

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In accordance with Section 377 of the Local Government Act 1993, Council may, by resolution, delegate the General Manager (Chief Executive Officer) any of the functions of the Council with the exception of those functions as listed below. Such delegations assist the Chief Executive Officer to understand his/her authority to make decisions on behalf of the organisation. Delegating authority to the Chief Executive Officer is not a hindrance to effective decision-making, or a bureaucratic mechanism that slows decision-making. Rather, it provides the ability for the Chief Executive Officer to perform functions of Council to allow Council to concentrate on strategic issues.

This document outlines what functions are, and are not, delegated to the Chief Executive Officer and thereby the Chief Executive Officer has delegation to undertake all other functions.

## **DELEGATIONS**

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The Chief Executive Officer does not have the delegation to undertake the following in accordance with Section 377 of the *Local Government Act 1993* (the Act):

1. The appointment of a General Manager (Chief Executive Officer).
2. The making of a rate.
3. A determination under section 549 as to the levying of a rate.
4. The making of a charge.
5. The fixing of a fee.
6. The borrowing of money.
7. The voting of money for expenditure on its works, services or operations.
8. The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment).
9. The acceptance of tenders to provide services currently provided by members of staff of the council.
10. The adoption of an operational plan under section 405.
11. The adoption of a financial statement included in an annual financial report.
12. A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
13. The fixing of an amount or rate for the carrying out by the council of work on private land.

14. The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work.
15. The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979.
16. The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.
17. A decision under section 356 to contribute money or otherwise grant financial assistance to persons.
18. A decision under section 234 to grant leave of absence to the holder of a civic office.
19. The making of an application, or the giving of a notice, to the Governor or Minister.
20. This power of delegation.
21. Any function under this or any other Act that is expressly required to be exercised by resolution of the council.

#### **Development Application Delegations**

The Chief Executive Officer cannot approve Development Applications where:

1. A petition with eight or more signatures from separate households within the notification area has been received and the application has not been refused.
2. Where eight or more valid planning objections to the development application have been received from separate households within the notification area and the application has not been refused.
3. Development where there is major variation (more than a 10%) from Council's Development Standards under Clause 4.6 of the Dubbo LEP 2011 and Wellington LEP 2012 unless concurrence has been received from the State Government to determine particular matters under delegation.
4. Where two or more Councillors request a Development Application to be brought to Council.
5. Any matter subject to appeal where the matter has gone to a hearing or Section 34A Conference.
6. Applications having a major environmental impact on the locality and which involve land owned by Council.
7. Applications where income is to be forgone such as a reduction in developer contributions levied under an adopted Section 94 Plan or Section 64 Policy.

### Voluntary Planning Agreements

- The Chief Executive Officer does not have the delegation to enter into Voluntary Planning Agreements (VPAs)

These matters must be referred to either Council or the Planning, Development and Environment Committee where appropriate for determination.

### Other Matters

- **Writing Off Accounts**

The Chief Executive Officer does not have the delegation to approve the writing off of accounts greater than \$10,000. Write offs are reported to Council on an annual basis.

- **Writing Off Stores and Materials**

The Chief Executive Officer does not have the delegation to approve the write on and off stores and materials greater than \$10,000.

- **Leases**

The Chief Executive Officer cannot approve on behalf of Council:

(a) Any lease or licence of land classified operational pursuant to s26 of the Local Government Act 1993 where:

- i. The term (including any option(s)) exceeds 10 years
- ii. The rent is less than fair market rent, but excluding any lease of licence for which tenders are required under the Local Government Act 1993 to be invited by the Council

(b) Any temporary lease and/or licence of Crown Land controlled or managed by Council where the term exceeds 12 months.

- **Power of Attorney**

The Chief Executive Officer has delegation to sign documents on behalf of Council under Power of Attorney which give effect to Council's resolutions or in accordance with the Delegations to the Chief Executive Officer.



## REPORT: Investments Under Section 625 of the Local Government Act - September 2021

**AUTHOR:** Chief Financial Officer  
**REPORT DATE:** 1 October 2021  
**TRIM REFERENCE:** ID21/1627

### EXECUTIVE SUMMARY

As required by Clause 212 of the Local Government (General) Regulation 2005, set out below are the details of all monies that Council has invested under Section 625 of the Local Government Act as at 30 September 2021.

Investments, when placed, have been done so in accordance with the Local Government Act, Local Government Regulations and Council's Investment Policy and Strategy. Interest on investments for the month of 30 September 2021 has been accounted for on an accrual basis. This report details investments and annualised returns for the month of September 2021.

### STRATEGIC ALIGNMENT

The 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes five principal themes and a number of strategies and outcomes. This report is aligned to:

Theme: 4 Community Leadership  
CSP Objective: 4.3 The resources of Council are appropriately managed  
Delivery Program Strategy: 4.3.2 The system of raising revenue is regarded as equitable and revenue from grants and other income sources is maximised

### FINANCIAL IMPLICATIONS

Interest earned on investments has been included within Council's 2021/2022 Operational Plan, with total income generated from the Investment Portfolio forecast to be in excess of \$2,484,947.00.

### POLICY IMPLICATIONS

There are no policy implications arising from this report.

**RECOMMENDATION**

**That the information contained within the report of the Chief Financial Officer, dated 1 October 2021 be noted.**

*Michael Howlett*  
Chief Financial Officer

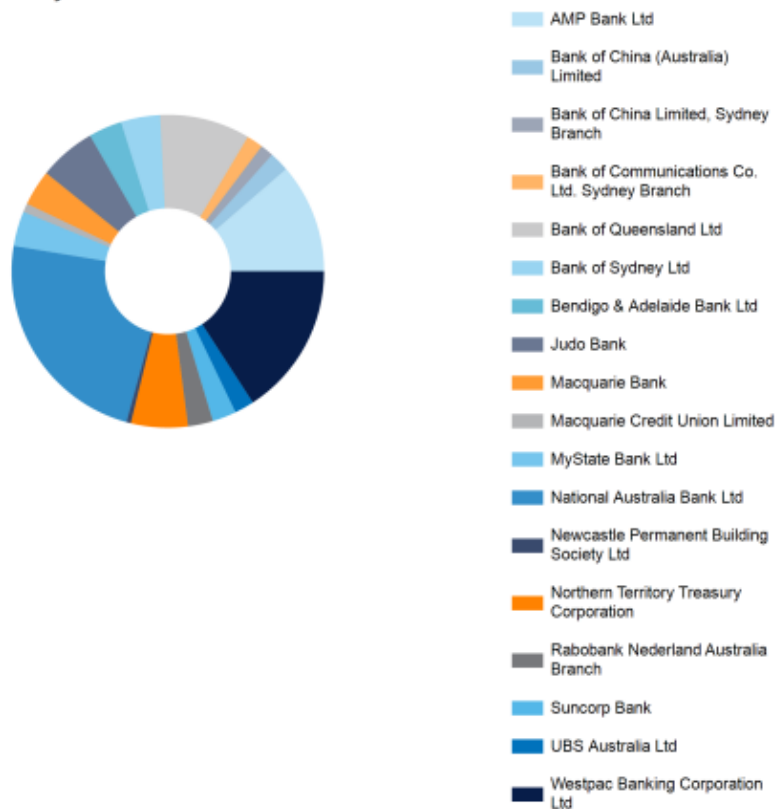
**PORTFOLIO OVERVIEW**

The below table details Council’s current investment portfolio:

Issuer	Market Value	% Total Value
AMP Bank Ltd	25,124,412.88	11.34%
Bank of China (Australia) Limited	4,505,839.65	2.03%
Bank of China Limited, Sydney Branch	3,009,990.00	1.36%
Bank of Communications Co. Ltd. Sydney Branch	3,777,562.50	1.71%
Bank of Queensland Ltd	20,694,163.58	9.34%
Bank of Sydney Ltd	9,009,295.90	4.07%
Bendigo & Adelaide Bank Ltd	7,653,595.89	3.46%
Judo Bank	13,045,813.65	5.89%
Macquarie Bank	8,175,040.00	3.69%
Macquarie Credit Union Limited	2,007,978.08	0.91%
MyState Bank Ltd	8,002,000.00	3.61%
National Australia Bank Ltd	51,655,710.42	23.32%
Newcastle Permanent Building Society Ltd	1,008,000.00	0.46%
Northern Territory Treasury Corporation	13,033,450.00	5.88%
Rabobank Nederland Australia Branch	5,735,300.00	2.59%
Suncorp Bank	5,476,900.00	2.47%
UBS Australia Ltd	4,502,250.00	2.03%
Westpac Banking Corporation Ltd	35,083,943.81	15.84%
<b>Portfolio Total</b>	<b>221,501,246.36</b>	<b>100.00%</b>

^Portfolio overview represents total market value. Investment face value is \$219,485,620.84.

**Market Value by Issuer**



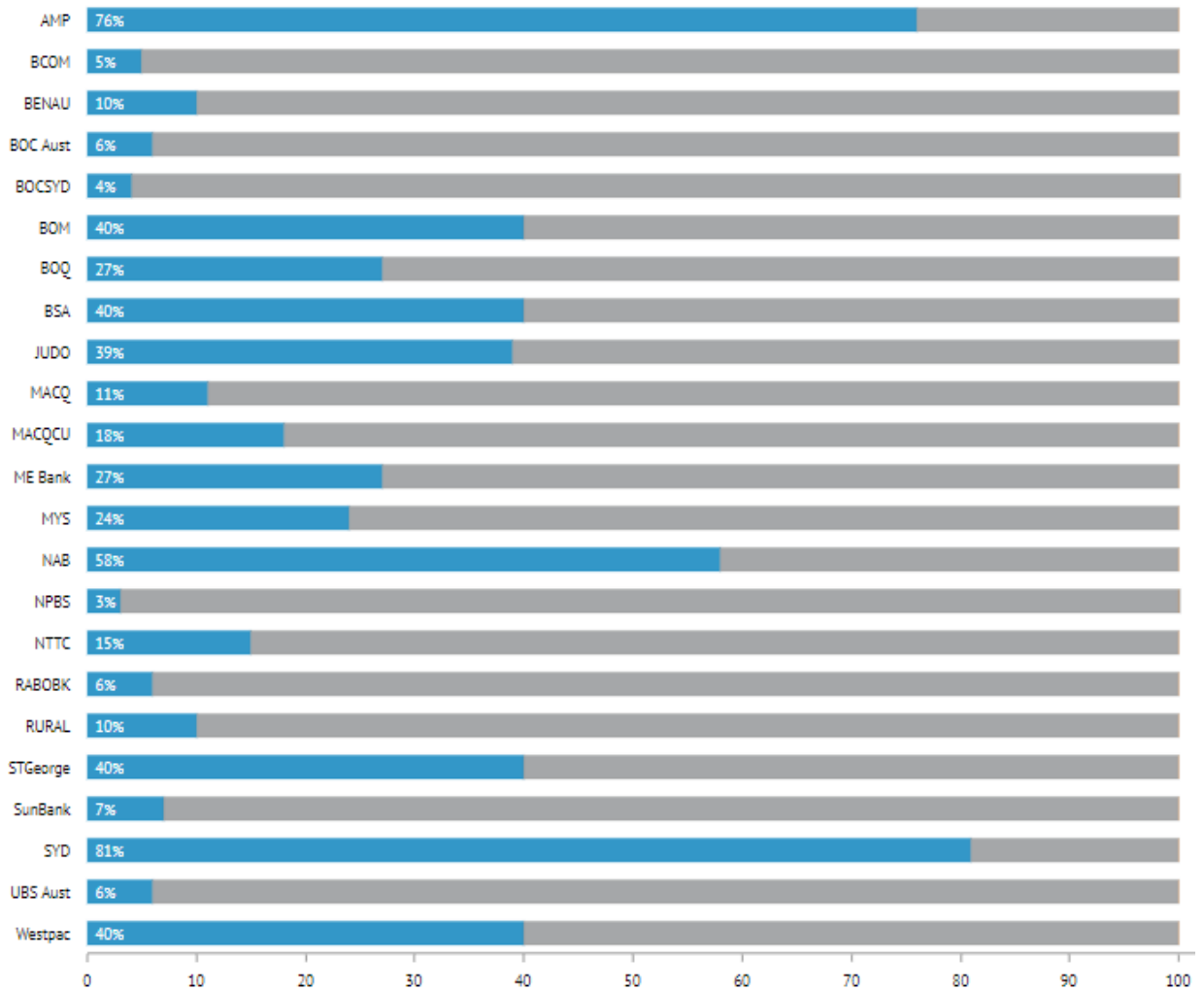
^ NAB is inclusive of Councils cash account.

^AMP is inclusive of Councils 31 day notice saver account.

**INVESTMENT COMPLIANCE**

The following table shows that Councils investments are compliant with the revised Investment Policy that was adopted at the Ordinary Council meeting held 22 March 2021.

Issuer Limits





**INTEREST INCOME**

The below table details payments of interest paid to Council between 1 Sept to 30 Sept 2021.

Security	Issuer	Income Expense Code	Settlement Date	Face Value (Basis of Interest Calculation)	Consideration Notional
Westpac 0.78 03 Sep 2021 365DAY TD	Westpac Banking Corporation Ltd	IEI178799	3 Sep 2021	5,000,000.00	9,830.14
Westpac 3.15 08 Jun 2022 1826DAY TD	Westpac Banking Corporation Ltd	IEI179305	8 Sep 2021	2,000,000.00	15,879.45
Westpac 3.15 09 Jun 2022 1826DAY TD	Westpac Banking Corporation Ltd	IEI179442	9 Sep 2021	3,000,000.00	23,819.18
MYS 0.65 16 Jun 2025 FRN	MyState Bank Ltd	IEI180968	16 Sep 2021	8,000,000.00	13,552.48
AMP 1.75 18 Sep 2021 548DAY TD	AMP Bank Ltd	IEI159414	18 Sep 2021	2,000,000.00	17,547.95
BOQ 3.35 20 Sep 2023 1826DAY TD	Bank of Queensland Ltd	IEI181368	20 Sep 2021	2,000,000.00	67,000.00
NAB 3 20 Sep 2021 1096DAY TD	National Australia Bank Ltd	IEI181365	20 Sep 2021	5,000,000.00	150,000.00
Westpac 3.15 20 Sep 2022 1461DAY TD	Westpac Banking Corporation Ltd	IEI181366	20 Sep 2021	5,000,000.00	39,698.63
Westpac 3.3 20 Dec 2022 1826DAY TD	Westpac Banking Corporation Ltd	IEI181367	20 Sep 2021	3,000,000.00	24,953.42
BOQ 1.8 27 Sep 2022 1096DAY TD	Bank of Queensland Ltd	IEI182401	27 Sep 2021	8,000,000.00	144,000.00
BCOM 0.83 29 Sep 2023 FloatTCD	Bank of Communications Co. Ltd. Sydney Branch	IEI182903	29 Sep 2021	3,750,000.00	8,128.77
NAB At Call In	National Australia Bank Ltd	IEI183013	30 Sep 2021		19,258.81
					<b>533,668.83</b>

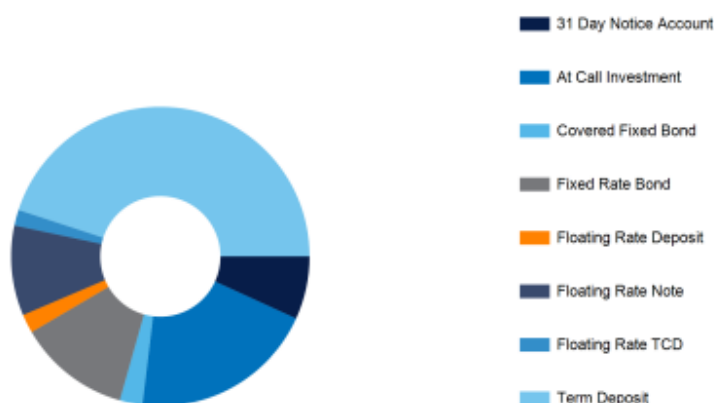
^ Interest received consists of payments made to Council's allocated bank account and are exclusive of accruing interest.

**INVESTMENT BY ASSET CLASS**

The following table details Councils investment holdings by investment type:

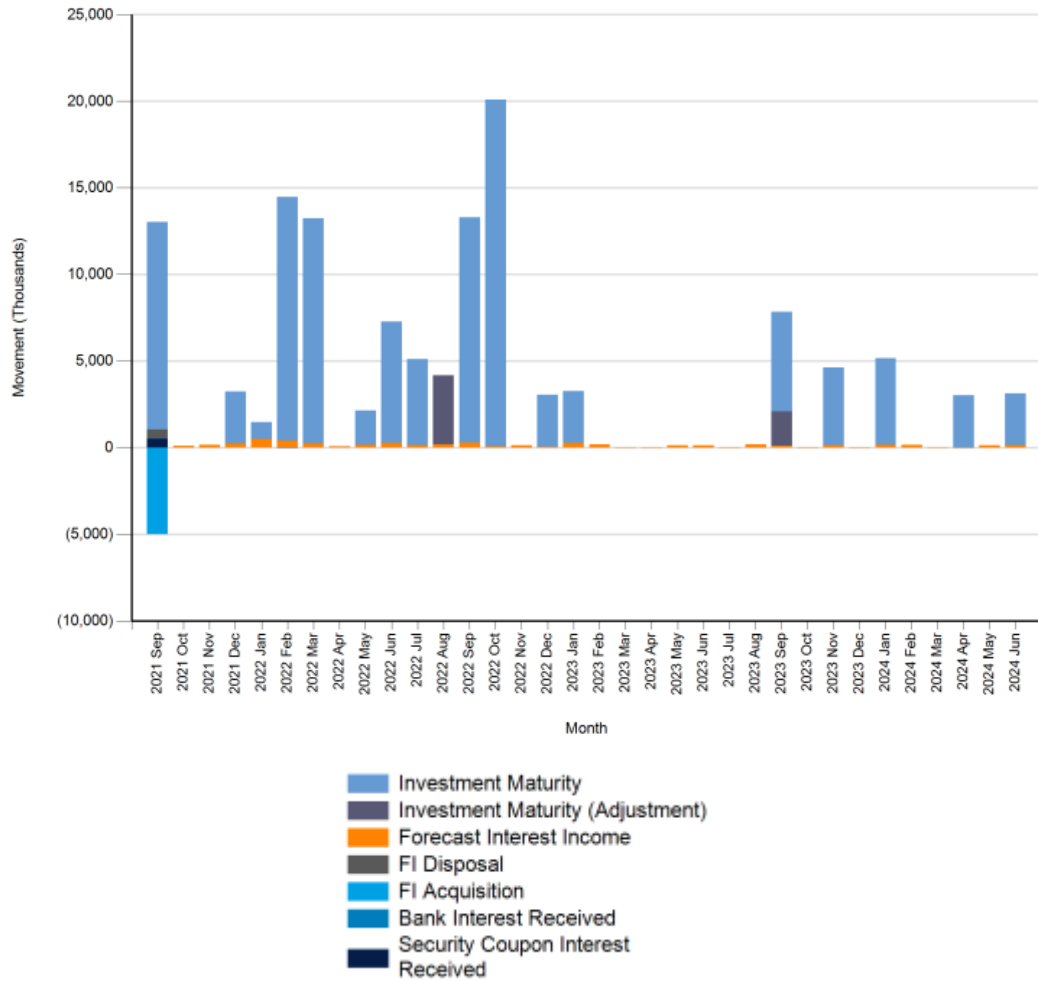
Security Type	Market Value	% Total Value
31 Day Notice Account	15,088,063.56	6.81%
At Call Investment	44,543,737.80	20.11%
Covered Fixed Bond	5,476,900.00	2.47%
Fixed Rate Bond	26,943,790.00	12.16%
Floating Rate Deposit	4,505,839.65	2.03%
Floating Rate Note	21,540,390.00	9.72%
Floating Rate TCD	3,777,562.50	1.71%
Term Deposit	99,624,962.85	44.98%
Portfolio Total	221,501,246.36	100.00%

Market Value by Security Type



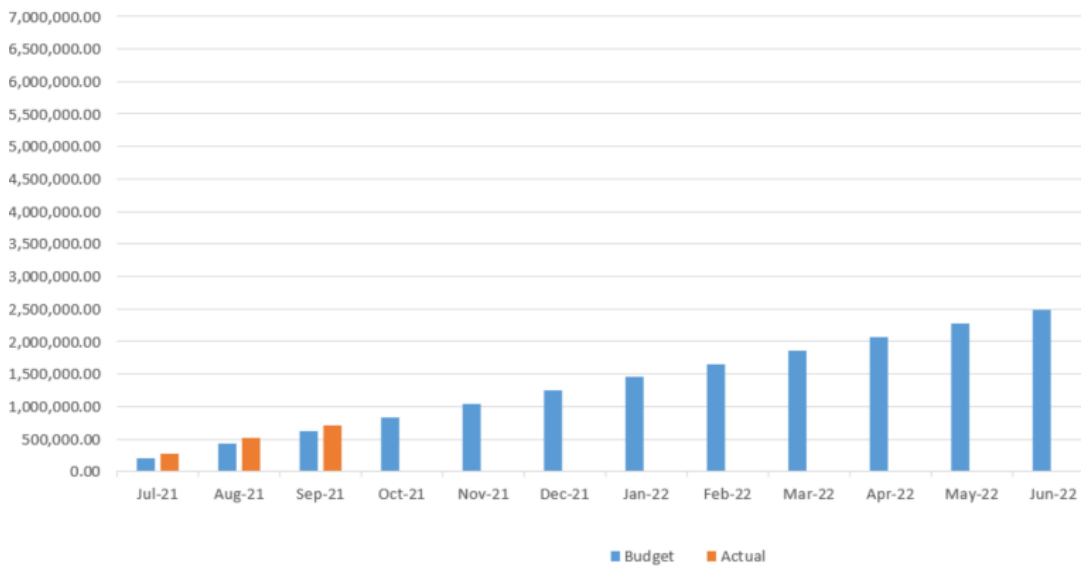
**FUTURE MATURITY CASHFLOW**

The below table details the expected cash flow of future investment maturity:



**BUDGET TO ACTUAL – INTEREST ON INVESTMENTS**

Budget to Actual - Interest on Investments



**SUMMARY**

**Cash Account**

Council outperformed the 11.00 am Official Cash Rate market benchmark for one month annualised return of 0.10%, achieving a return of 0.50% for its At Call investments for the month of September 2021.

**Investment Portfolio**

Council outperformed the one month annualised Bloomberg AusBond Bank Bill Index of 0.00%, with an average return of 1.3922% for its overall portfolio return.