



AGENDA

ORDINARY COUNCIL MEETING

7 DECEMBER 2020

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

The meeting is scheduled to commence at 5:30pm.

PRAYER:

O God, Grant that by the knowledge of thy will, all we may resolve shall work together for good, we pray through Jesus Christ our Lord. Amen!

ACKNOWLEDGEMENT OF COUNTRY:

"I would like to acknowledge the Wiradjuri People who are the Traditional Custodians of the Land. I would also like to pay respect to the Elders both past and present of the Wiradjuri Nation and extend that respect to other Aboriginal peoples from other nations who are present".

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Confirmation of Minutes

Confirmation of the minutes of the proceedings of the Ordinary Council Meeting meeting held on 23 November 2020.

RECOMMENDATION

That the minutes of the proceedings of the Dubbo Regional Council at the Ordinary Council Meeting held on 23 November 2020 comprising pages 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 and the Extraordinary Council Meeting held on 23 November 2020 comprising pages 18 and 19 of the series of the series be taken as read, confirmed as correct minutes and signed by the Mayor and the Chief Executive Officer.

Appendices:

- 1 [↓](#) Minutes - Ordinary Council Meeting - 23/11/2020
- 2 [↓](#) Minutes - Committee of the Whole - 23/11/2020



REPORT

ORDINARY COUNCIL MEETING

23 NOVEMBER 2020

PRESENT: Councillors J Diffey, V Etheridge, D Grant, D Gumley, S Lawrence, K Parker, J Ryan and B Shields.

ALSO IN ATTENDANCE:

The Chief Executive Officer, the Executive Manager CEO Services, the Governance and Internal Control Manager, the Administration Officer Mayor, the Administration Assistant Governance, the Community Support Officer, the Communications Partner, the Director Organisational Performance (M Howlett), the Director Culture and Economy (J Howard), the Director Infrastructure, the Director Development and Environment, the Manager Resource Recovery and Efficiency and the Director Liveability (I McAlister).

Councillor B Shields assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 5:30pm at the Dubbo Civic Administration Building, Council Chamber, with a prayer for Divine Guidance to the Council in its deliberations and activities. The acknowledgement of country was also read by Councillor K Parker.

CCL20/184 CONFIRMATION OF MINUTES (ID20/1406)

Confirmation of the minutes of the proceedings of the Ordinary Council Meeting held on 26 October 2020 and the Extraordinary Council Meeting held on 29 October 2020.

Moved by Councillor J Ryan and seconded by Councillor V Etheridge

MOTION

That the minutes of the proceedings of the Dubbo Regional Council at the Ordinary Council meeting held on 26 October 2020 comprising pages 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of the series, and the Extraordinary Council Meeting held on 29 October 2020 comprising pages 17 and 18 of the series be taken as read, confirmed as correct minutes and signed by the Mayor and the Chief Executive Officer.

CARRIED

CCL20/185 LEAVE OF ABSENCE (ID20/1407)

A request for leave of absence was received from Councillor G Mohr who was absent from the meeting due to the personal reasons whilst Councillor A Jones was previously granted leave of absence from this meeting by Council (refer Clause CCL20/165b).

Moved by Councillor D Gumley and seconded by Councillor V Etheridge

MOTION

That such requests for leave of absence be accepted and Councillor G Mohr be granted leave of absence from this meeting and it be noted that Councillor A Jones had been previously granted leave of absence from this meeting by Council.

CARRIED

CCL20/186 PUBLIC FORUM (ID20/1408)

The Council reports having met with the following person during Public Forum:

- Mr Matthew Gilbert – representing Dubbo Cycle Club, thanking Council for support over tenancy as president.

MAYORAL MINUTES:**CCL20/187 LACK OF HEALTH SERVICES AT WELLINGTON HOSPITAL (ID20/1506)**

The Council had before it the Mayoral Minute regarding Lack of Health Services at Wellington Hospital.

Moved by Councillor B Shields

MOTION

1. That Council write to the NSW Health Minister Brad Hazzard, Premier Gladys Berejiklian, and Member for Dubbo Dugald Saunders outlining Council's concerns about Wellington's service provisions.
2. That wherever possible, Council advocate for better health services for Wellington as a matter of urgency.

Moved by Councillor S Lawrence and seconded by Councillor D Grant

AMENDMENT

1. That Council write to the NSW Health Minister Brad Hazzard, Premier Gladys Berejiklian, and Member for Dubbo, Dugald Saunders, outlining Council's concerns about Wellington's service provisions.
2. That wherever possible, Council advocate for better health services for Wellington as a matter of urgency.
3. That Council provide a petition on the issue for members of the community to sign.

The amendment on being put to the meeting was carried.

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

Councillor J Diffey declared a non-pecuniary, but significant interest in the matter now before the Council and left the room and was out of sight during Council's consideration of this matter. The reason for such interest is that Councillor J Diffey is employed by the NSW Parliament and has a working relationship with the State Member for the Dubbo Electorate, Mr Dugald Saunders.

CCL20/187a WELLINGTON AQUATIC LEISURE CENTRE - REQUEST FROM WELLINGTON SWIM CLUB (ID20/1460)

The Council had before it the Mayoral Minute regarding Wellington Aquatic Leisure Centre - Request from Wellington Swim Club.

Moved by Councillor B Shields

MOTION

That the Council consider the request from the Wellington Swim Club for determination.

Moved by Councillor D Gumley and seconded by Councillor S Lawrence

AMENDMENT

1. That the Council consider the matter as part of the 2021/2022 fees and charges review in May 2021.
2. That Council write to Wellington Swim Club to advise Council's determination of this matter.

The amendment on being put to the meeting was carried

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

As one or more Councillors voted against the motion, in accordance with Clause 11.5 of Council's Code of Meeting Practice the following votes were recorded:

FOR	AGAINST
Councillor Diffey	Councillor Grant
Councillor Etheridge	
Councillor Gumley	
Councillor Lawrence	
Councillor Parker	
Councillor Ryan	
Councillor Shields	
Total (7)	Total (1)

Councillor D Grant declared a non-pecuniary, less than significant interest in the matter now before the Council and remained in the room during Council's consideration of this matter. The reason for such interest is that Councillor D Grant's daughter is a current member of the Wellington Amateur Swimming Club.

MATTERS CONSIDERED BY COMMITTEES:

CCL20/188 REPORT OF THE DEVELOPMENT AND ENVIRONMENT COMMITTEE - MEETING 9 NOVEMBER 2020 (ID20/1409)

The Council had before it the report of the Development and Environment Committee meeting held 9 November 2020.

Moved by Councillor D Gumley and seconded by Councillor K Parker

MOTION

That the report of the Development and Environment Committee meeting held on 9 November 2020, be noted.

CARRIED

CCL20/189 REPORT OF THE INFRASTRUCTURE AND LIVEABILITY COMMITTEE - MEETING 9 NOVEMBER 2020 (ID20/1410)

The Council had before it the report of the Infrastructure and Liveability Committee meeting held 9 November 2020.

Moved by Councillor D Gumley and seconded by Councillor J Ryan

MOTION

That the report of the Infrastructure and Liveability Committee meeting held on 9 November 2020, be noted.

CARRIED

CCL20/190 REPORT OF THE CULTURE, ECONOMY AND CORPORATE COMMITTEE - MEETING 9 NOVEMBER 2020 (ID20/1411)

The Council had before it the report of the Culture, Economy and Corporate Committee meeting held 9 November 2020.

Moved by Councillor D Gumley and seconded by Councillor V Etheridge

MOTION

That the report of the Culture, Economy and Corporate Committee meeting held on 9 November 2020, be noted.

CARRIED

**CCL20/191 REPORT OF THE DUBBO REGIONAL COUNCIL SOLAR AND WIND FARM
CONSULTATIVE COMMITTEE - MEETING 14 OCTOBER 2020 (ID20/1457)**

The Council had before it the report of the Dubbo Regional Council Solar and Wind Farm Consultative Committee meeting held 14 October 2020.

Moved by Councillor J Diffey and seconded by Councillor J Ryan

MOTION

1. That the report of the Dubbo Regional Council Solar and Wind Farm Consultative Committee meeting held on 14 October 2020, be adopted.
2. That the successful applications as listed below be adopted:

• Rotary Club of Wellington Inc	\$7,500
• Wellington Touch Football Association	\$3,500
• Wellington Arts Centre Inc.	\$7,500
• Orana Toy Library	\$2,500
• Stuart Town Advancement Association	\$10,000
• Wellington PCYC	\$9,000
• Wellington Progress and Action Group Inc.	\$7,500
• Wellington Town Band	\$2,500

CARRIED

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Diffey	
Councillor Etheridge	
Councillor Gumley	
Councillor Lawrence	
Councillor Parker	
Councillor Ryan	
Councillor Shields	
Total (7)	Total (0)

Councillor D Grant declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during Council's consideration of this matter. The reason for such interest is that Councillor D Grant is the Treasurer of the Rotary Club of Wellington.

REPORTS FROM STAFF:**CCL20/192 2019/2020 ANNUAL REPORT (INCLUDING STATUTORY REPORTING REQUIREMENTS) (ID20/1413)**

The Council had before it the report dated 2 November 2020 from the Chief Executive Officer regarding 2019/2020 Annual Report (Including Statutory Reporting Requirements).

Moved by Councillor S Lawrence and seconded by Councillor K Parker

MOTION

1. That the 2019/2020 Annual Report, as attached Appendix 1 to the report of the Chief Executive Officer dated 2 November 2020, be adopted.
2. That the 2019/2020 Annual Report be published on Council's website.
3. That the 2019/2020 Annual Report be forwarded to the Office of Local Government.

CARRIED

CCL20/193 SEPTEMBER 2020 QUARTERLY BUDGET REVIEW STATEMENTS (ID20/1452)

The Council had before it the report dated 6 November 2020 from the Chief Executive Officer regarding September 2020 Quarterly Budget Review Statements.

Moved by Councillor J Diffey and seconded by Councillor V Etheridge

MOTION

1. That the Quarterly Budget Review Statements as at 30 September 2020, as attached to the report of the Chief Executive Officer dated 6 November 2020, be adopted and such sums voted for such purpose.
2. That the Statement of the Responsible Accounting Officer that Council is in a satisfactory financial position as at 30 September 2020 after utilising \$4.23M of the COVID-19 reserve, be noted.

CARRIED

CCL20/194 REPORT ON THE ACTIVITIES OF THE INTERNAL OMBUDSMAN (ID20/1454)

The Council had before it the report dated 9 November 2020 from the Chief Executive Officer regarding Report on the Activities of the Internal Ombudsman.

Moved by Councillor D Gumley and seconded by Councillor V Etheridge

MOTION

That the information contained in the report of the Chief Executive Officer dated 9 November 2020 be noted.

CARRIED

CCL20/195 ANNUAL REPORT ON COMPLAINT STATISTICS UNDER COUNCIL'S CODE OF CONDUCT (ID20/1467)

The Council had before it the report dated 12 November 2020 from the Internal Ombudsman regarding Annual report on Complaint Statistics Under Council's Code of Conduct.

Moved by Councillor V Etheridge and seconded by Councillor D Gumley

MOTION

That the information contained within the report of the Internal Ombudsman dated 12 November 2020 be noted.

CARRIED

CCL20/196 ACQUISITION AGREEMENT (ROAD DEDICATION) - 4L AND 5L BOOTHENBA ROAD, DUBBO - DRC AND HOPES BUS SERVICES (ID20/1414)

The Council had before it the report dated 2 November 2020 from the Property Development Officer regarding Acquisition Agreement (Road Dedication) - 4L and 5L Boothenba Road, Dubbo - DRC and Hopes Bus Services.

Moved by Councillor K Parker and seconded by Councillor V Etheridge

MOTION

- 1. That the agreement made with Mick Hope of Hopes Bus Services Pty Ltd for the dedication of land to the public for the purposes of public road (from Lot 126 DP 1187388 and lot 10 DP 576498), as detailed within this report of the Property Development Officer dated 2 November 2011, be adopted.**
- 2. That the Chief Executive Officer be authorised to finalise the dedication of the subject land for the purposes of public road.**
- 3. That all documentation in relation this matter be executed under Power of Attorney.**

CARRIED

**CCL20/197 PROPOSED TRANSFER OF CROWN ROAD AT TROY GULLY TO COUNCIL
(ID20/1453)**

The Council had before it the report dated 6 November 2020 from the Property Specialist regarding Proposed Transfer of Crown Road at Troy Gully to Council.

Moved by Councillor D Grant and seconded by Councillor D Gumley

MOTION

1. That Council make application to NSW Department of Planning, Industry and Environment for transfer of the Crown unformed road.
2. That the subject land be classified as Operational in accordance with the Local Government Act 1993.
3. That all documentation in relation to this matter be executed under Power of Attorney.

CARRIED

CCL20/198 RENEWAL OF FIRGROVE ESTATE STREET SIGNS (ID20/1355)

The Council had before it the report dated 26 October 2020 from the Director Infrastructure regarding Renewal of Firgrove Estate Street Signs.

Moved by Councillor V Etheridge and seconded by Councillor J Diffey

MOTION

1. That Council undertake maintenance works to restore the existing decorative timber street signs at Firgrove Estate, noting that regular maintenance will be required in the future.
2. That Council write to the Firgrove Residents Association to alter the community title Neighbourhood Management Statement to include ongoing future maintenance of the painted timber surface.

CARRIED

CCL20/199 PROPOSED ROAD CLOSURE OF UNFORMED ROAD - SECTION OF GOONOO STREET WONGARBON (ID20/1357)

The Council had before it the report dated 27 October 2020 from the Road Services Engineer regarding Proposed Road Closure of Unformed Road - Section of Goonoo Street Wongarbron.

Moved by Councillor J Diffey and seconded by Councillor V Etheridge

MOTION

1. That Council consent to the closure of this section of road as indicated in Appendix 1.
2. That Council undertake the Roads Act Council Road Closure Process: Closing of Council Public Roads by Councils - Part 4 Division 3 Roads Act 1993.
3. That a 100 mm water main easement be provided for Council maintenance.
4. That upon closure, the road be offered for sale to the adjacent landowner at a price determined from an independent valuation, plus recovery of costs incurred in the disposal of the land.
5. That all documentation in relation to this matter be executed under power of attorney.

CARRIED

CCL20/200 ADOPTION OF DRAFT WATER SUPPLY AND SEWERAGE CUSTOMER SERVICE STANDARDS 2020/2021 AND 2021/2022 - RESULTS OF PUBLIC EXHIBITION (ID20/1356)

The Council had before it the report dated 26 October 2020 from the Water Sewer Client Services Coordinator regarding Adoption of Draft Water Supply and Sewerage Customer Service Standards 2020/2021 and 2021/2022 - Results of Public Exhibition.

Moved by Councillor D Gumley and seconded by Councillor V Etheridge

MOTION

That Council adopt the Draft Customer Service Standards for Water Supply and Sewerage for 2020/2021 and 2021/2022.

CARRIED

CCL20/201 2020/2021 FINANCIAL ASSISTANCE PROGRAM - ROUND ONE (ID20/1456)

The Council had before it the report dated 9 November 2020 from the Director Liveability regarding 2020/2021 Financial Assistance Program - Round One.

Moved by Councillor J Diffey and seconded by Councillor D Grant

MOTION

1. That the report from the Director Liveability dated 9 November 2020, be noted.
2. That funds from the 2020/2021 Financial Assistance Fund round one be allocated as follows:
 - a) Wellington Division of Orange Legacy \$8,000
 - b) Ballimore Progress Association \$3,000
 - c) Cerebral Palsy Alliance Dubbo \$4,000
3. That all applicants be formally advised of funding application outcomes.

CARRIED

CCL20/202 COMMENTS AND MATTERS OF URGENCY (ID20/1412)

There were no matters recorded under this clause.

At this juncture, it was moved by Councillor D Gumley and seconded by Councillor D Grant the Council resolve into a Committee of the Whole Council, the time being 6.19pm.

The meeting resumed at 6.22pm.

CCL20/203 COMMITTEE OF THE WHOLE

The Executive Manager CEO read to the meeting of the Report of the Committee of the Whole meeting held on 23 November 2020.

Moved by Councillor V Etheridge and seconded by Councillor D Gumley

MOTION

That the report of the meeting of the Committee of the Whole held on 23 November 2020, be adopted save and except CW20/27, which will be dealt with separately.

CARRIED

CW20/27 WELLINGTON WASTE FACILITY - RECEIPT OF COMMERCIAL SKIP BIN, HOOKLIFT BIN AND GARBAGE TRUCK WASTE. (ID20/1271)

The Council had before it the report dated 2 October 2020 from the Manager Resource Recovery and Efficiency regarding Wellington Waste Facility - Receipt of Commercial Skip Bin, Hooklift Bin and Garbage Truck Waste..

Moved by Councillor J Diffey and seconded by Councillor J Ryan

MOTION

- 1. That the Wellington Waste Facility cease to accept commercial skip bin, hooklift bin and commercial garbage truck waste.
- 2. That correspondence from council be sent out to current commercial, skip bin, hooklift bin and garbage truck operators that the Wellington Facility will cease to accept their commercial waste providing one month notice from the date of the letter.
- 3. That a further report analysing the future operations of the Wellington Waste Facility be considered by Council.

CARRIED

Councillor D Grant declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during Council's consideration of this matter. The reason for such interest is that Councillor D Grant has business dealings with the skip bin operator through Elders Insurance.

The meeting closed at 6.23pm

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CHAIRMAN



REPORT CONFIDENTIAL COMMITTEE OF THE WHOLE MEETING 23 NOVEMBER 2020

PRESENT: Councillors J Diffey, V Etheridge, D Grant, D Gumley, S Lawrence, K Parker, J Ryan and B Shields.

ALSO IN ATTENDANCE:

The Chief Executive Officer, the Executive Manager CEO Services, the Governance and Internal Control Manager, the Administration Officer Mayor, the Administration Assistant Governance, the Community Support Officer, the Communications Partner, the Director Organisational Performance (M Howlett), the Director Culture and Economy (J Howard), the Director Infrastructure, the Director Development and Environment, the Manager Resource Recovery and Efficiency and the Director Liveability (I McAlister).

Councillor B Shields assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 6.20pm at the Dubbo Civic Administration Building, Council Chamber.

CW20/27 WELLINGTON WASTE FACILITY - RECEIPT OF COMMERCIAL SKIP BIN, HOOKLIFT BIN AND GARBAGE TRUCK WASTE. (ID20/1271)

The Committee had before it the report dated 2 October 2020 from the Manager Resource Recovery and Efficiency regarding Wellington Waste Facility - Receipt of Commercial Skip Bin, Hooklift Bin and Garbage Truck Waste..

Moved by Councillor D Gumley and seconded by Councillor J Ryan

MOTION

That members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business (Section 10A(2)(c)).

CARRIED

Moved by Councillor J Diffey and seconded by Councillor J Ryan

MOTION

- 1. That the Wellington Waste Facility cease to accept commercial skip bin, hooklift bin and commercial garbage truck waste.**
- 2. That correspondence from council be sent out to current commercial, skip bin, hooklift bin and garbage truck operators that the Wellington Facility will cease to accept their commercial waste providing one month notice from the date of the letter.**
- 3. That a further report analysing the future operations of the Wellington Waste Facility be considered by Council.**

CARRIED

Councillor D Grant declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during Council's consideration of this matter. The reason for such interest is that Councillor D Grant has business dealings with the skip bin operator through Elders Insurance.

The meeting closed at 6.21 pm.

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CHAIRMAN



DUBBO REGIONAL
COUNCIL

MAYORAL MINUTE: Vale - Anthony (Tony) George Kelly

AUTHOR: Mayor
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1581

To the Council
Ladies and Gentlemen

Office of the Mayor
Civic Administration Building
Church Street, Dubbo

We were deeply saddened by the passing of former Dubbo City Council general manager Mr Anthony (Tony) Kelly recently.

Mr Kelly was employed by Dubbo City Council from 26 June 1968 until his retirement in November 2004, some 36 years of service including 30 years as Town Clerk/General Manager.

Mr Kelly started his career with Dubbo City Council as an Assistant Accountant in 1968 before being appointed to the position of Deputy Town Clerk. Affectionately known as 'TC', Tony was appointed to the position of Town Clerk on 8 April 1975 and retained this position with varying titles of Town Clerk/General Manager and then General Manager until his retirement in 2004.

During Mr Kelly's tenure as Town Clerk/General Manager he worked with nine Mayors: Mr Kenneth Marshall, Norman Cox, Harry Glegg, Thomas Slattery, Arthur Mortimer, Anthony McGrane, Gerald Peacocke, Gregory Matthews and Allan Smith.

Mr Kelly's leadership had a tremendous impact on the community. We can count as his legacy the Serisier Bridge and its location on Erskine Street, as well as the treasured recreation assets within the city that are the river corridor, Lady Cutler Park, soccer facilities, Ollie Robbins Oval, Nita McGrath Netball complex and the north Dubbo river bank ovals including the Dave Martin cricket nets. Additionally the cycleway to the Zoo and around the West Dubbo river bank and across the cycleway bridge to link Tamworth Street are all initiatives of Mr Kelly as General Manager.

As well as his significant public service, Mr Kelly was a passionate advocate for his local community, and spent much of his personal time contributing to local organisations and sporting clubs including Westhaven Association and Dubbo Cymys Cricket Club.

Mr Tony Kelly died on Thursday 26 November 2020 at 77 years of age. The flags were flown at half-mast on the day to honour Mr Kelly. I attended Mr Kelly's funeral as a representative of Dubbo Regional Council on Wednesday 2 December 2020. Flags were also flown at half-mast on this day as a sign of respect.

RECOMMENDATION

That the Mayoral Minute be noted.

Councillor Ben Shields
Mayor



DUBBO REGIONAL
COUNCIL

MAYORAL MINUTE: Dubbo Aquatic Leisure Centre Masterplan

AUTHOR: Mayor
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1585

To the Council
Ladies and Gentlemen

Office of the Mayor
Civic Administration Building
Church Street, Dubbo

There has been significant progress made in the Dubbo Region by this Council and it is important we keep this momentum going. Part of what has made the last few years exciting for residents has been that there is always a big project on the go.

I believe Council should now turn its attention to the long-term plan for the Dubbo Aquatic Leisure Centre. A masterplan has been in development since I requested one in a Mayoral Minute at the June 2018 Ordinary meeting of Council but the community needs to know what is happening and what they can expect.

Community feedback found people are looking for an indoor lap pool and this has been a common request over a long period of time, however there is also appetite for more recreational, fun activities.

A pool is a great place to socialise and should have plenty of entertainment for families as well as catering to those who swim for exercise. Dubbo has a high rate of backyard pools, our facility should offer something more as a point of difference. Our climate also means that during the summer months, people want to spend time at the pool.

A major regional city like Dubbo should be leading the way with our recreational offerings and that is why it is so important that Council push ahead with its plans to develop the Dubbo Aquatic Leisure Centre. Accordingly I request that a masterplan for the future Dubbo Aquatic Leisure Centre be prepared, with design concepts ready to present to Council in April 2021.

RECOMMENDATION

That a masterplan for the future Dubbo Aquatic Leisure Centre be prepared, with design concepts to be presented to Council in April 2021.

Councillor Ben Shields
Mayor



MAYORAL MINUTE: Request for Greater Powers for Councils to Enforce Commercial Land Clean-up

AUTHOR: Mayor
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1582

To the Council
Ladies and Gentlemen

Office of the Mayor
Civic Administration Building
Church Street, Dubbo

This Council has invested a significant amount of time and effort into ensuring the Dubbo Region looks its best, for the benefit of local residents and our booming tourism industry. Unfortunately our efforts are being hampered by some commercial property owners that don't put the amount of effort into keeping buildings as tidy as they should.

It doesn't matter how much effort Council puts into cleaning up parks and reserves if a commercial property right next door is overgrown with weeds and grass, has rubbish all around and paint peeling off the buildings.

There are a number of these places across Dubbo and Wellington. I have no doubt people could easily identify two or three without even having to stop to think about it.

It is considered that the powers of a Local Government Authority are prohibitively restrictive in circumstances where the owners of commercial property allow their property to fall into disrepair. The impact of rundown and poorly maintained individual commercial properties on the vibrancy of the wider commercial streetscape cannot be underestimated and the effect is compounded when it involves more than one property.

The Local Government Act no longer gives Local Government the authority to require a building to be adequately maintained unless it forms a danger to the public or presents as a health threat.

The Environmental Planning and Assessment Act provides for an order (Order No. 5) to require an owner to repair a building that is, or is likely to become, a danger to the public, or is so dilapidated that it is prejudicial to the occupants, persons or property in the neighbourhood. The wording of the order does not provide for clear and effective enforcement of a building presented in an unsightly state.

I propose that Local Government be given stronger powers to require owners of commercial property that is in the immediate vicinity of a public place, is unsightly and significantly detracts from the amenity of the neighbourhood, to be adequately maintained.

Such a power would impose on commercial property owners a reasonable requirement that that they maintain their property and that they must keep it in a state of good repair.

I believe it would be in the best interest of Council to write to the NSW Minister for Planning Rob Stokes and ask for him to review the powers Councils have in this kind of situation. Councils are the ones who are aware of these problem properties and can work quickest with landowners to address them, as long as they have the proper powers.

It is in everybody's interests to have Dubbo looking good, and that includes commercial land owners and business owners. If people are unable to maintain a piece of commercial land then they shouldn't own that land.

RECOMMENDATION

That Council write to NSW Minister for Planning Rob Stokes and ask that he consider increasing the powers Councils have to clean up commercial properties.

Councillor Ben Shields
Mayor



DUBBO REGIONAL
COUNCIL

MAYORAL MINUTE: Shade for Rygate Park Multi-Purpose Courts

AUTHOR: Mayor
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1584

To the Council
Ladies and Gentlemen

Office of the Mayor
Civic Administration Building
Church Street, Dubbo

It has been brought to my attention that the lack of shade coverage for the multi-purpose courts at Wellington's Rygate Park is impacting on the ability of a local basketball program to provide a summer competition for more than 10 people.

In 2018 Council carried out substantial upgrades to Rygate Park, installing six tennis courts, four netball courts, two basketball courts and a half-size hockey field, all with lighting, as well as a new amenities block and storage areas. This \$1.265 million project was jointly funded between Dubbo Regional Council and the NSW Government.

This facility has been well-received by the local community but the lack of shade provision has proved to be an issue. A petition was recently presented to me by Jessica Sutherland containing 235 signatures calling for Council to install appropriate shade for the basketball courts.

Given that the courts are well used by the community, I believe Council should investigate the provision of more shade. I request that Council consider the matter as part of the 2021/2022 operational plan and budget review process in May 2021.

RECOMMENDATION

- 1. That the petition from Jessica Sutherland requesting more shade for Rygate Park be noted.**
- 2. That Council consider the matter as part of the 2021/2022 Operational Plan and Budget Review Process in May 2021.**

Councillor Ben Shields
Mayor



DUBBO REGIONAL
COUNCIL

REPORT: Building Summary - November 2020

AUTHOR: Director Development and
Environment
REPORT DATE: 26 November 2020
TRIM REFERENCE: ID20/1498

EXECUTIVE SUMMARY

Information has been prepared on the statistics of the number of dwellings and other residential development approved in the Dubbo Regional Local Government Area (LGA) together with statistics for total approved Development Applications for the information of Council.

Appendix 1 relates specifically to residential approval figures, and includes both historical and current financial year data relating to the Dubbo Regional LGA. **Appendices 2 to 5** include both the current and retrospective figures for all development types approved within the Dubbo Regional LGA for the financial years stated.

All development applications, construction certificates and complying development certificates can be tracked online at <https://planning.dubbo.nsw.gov.au/Home/Disclaimer>.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

That the information contained within the report of the Director Development and Environment dated 26 November 2020, be noted.

Stephen Wallace
Director Development and Environment

REPORT

Provided, for information, are the latest statistics (as at the time of production of this report) for Development Applications for Dubbo Regional Council.

1. Residential Building Summary

Dwellings and other residential developments approved during November 2020 were as follows:

November

Single dwellings	20
Other residential development	3
(No. of units)	4

For consistency with land use definitions included in the Local Environmental Plan (LEP), residential development has been separated into 'Single Dwellings' (defined in the LEP as 'dwelling house') and 'Other residential development' (comprising 'dual occupancies', 'secondary dwellings', 'multi dwelling housing', 'seniors housing', 'shop top housing' and 'residential flat buildings').

These figures include development applications approved by private certifying authorities (in the form of Complying Development Certificates).

A summary of residential approvals for the former Dubbo City Council area since 2011-2012 is included in **Appendix 1**. However, it should be noted that the figures from July 2017 onwards include the approvals within the former Wellington Local Government Area as a consequence of the commencement of the merged application system.

2. Approved Development Applications

The total number of approved Development Applications (including Complying Development Certificates) for November 2020, a comparison with figures 12 months prior and the total for the respective financial years, are as follows:

	<u>1 November 2020 – 30 November 2020</u>	<u>1 November 2019 to 30 November 2019</u>
No. of applications	54	91
Value	\$13,797,441	\$18,538,043
	<u>1 July 2020 – 30 November 2020</u>	<u>1 July 2019 – 30 November 2019</u>
No. of applications	355	342
Value	\$64,812,511	\$74,746,179

A summary breakdown of the figures is included in **Appendices 2-5**.

3. Online Application Tracking

All development applications, construction certificates and complying development certificates are tracked online and can be accessed at any time. A link is available on Councillor iPads for assistance (<https://planning.dubbo.nsw.gov.au/Home/Disclaimer>).

What information is available?

- All development applications, construction certificates and complying development certificates submitted from 1 November 2015 will provide access to submitted plans and supporting documents as well as tracking details of the progress of the application.
- More limited information is provided for applications submitted from 1 January 2001 to 31 October 2015.
- Occupation certificates (where issued) are provided from 2010.

What information is not available?

- Application forms.
- Floor plans for residential dwellings.
- Documentation associated with privately certified applications.
- Internal reports.

Councillors are welcome to contact me should they require further information in respect of outstanding Development Applications emanating from the online tracking system.

The information included in this report is provided for notation.

Appendices:

- [1](#) Approved Applications - 1 November 2020 to 30 November 2020
- [2](#) Approved Applications - 1 November 2019 to 30 November 2019
- [3](#) Approved Applications - 1 July 2020 to 30 November 2020
- [4](#) Approved Applications - 1 July 2019 to 30 November 2019
- [5](#) Building Summary - November 2020



Civic Administration Building
 P.O. Box 81 Dubbo NSW 2830
 T (02) 6801 4000
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 ABN 53 539 070 928

Print Date: 26/11/2020
 Print Time: 8:24:06AM

**Approved Development & Complying Development Applications
 by Dubbo Regional Council and Private Certifiers-Period 1/11/2020 - 30/11/2020**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Dwelling - single	27	11,202,751	20	9,666,251	7	1,536,500	20	
Dwelling - Secondary/Dual Occ Dwelling	2	690,000	2	690,000			2	
Dwelling - Dual Occupancy, one storey	1	400,000	1	400,000			2	
Garage/Carport/Roofed Outbuildings	17	555,190	17	555,190				
Swimming Pool	6	149,500	6	149,500				
Hotels	1	460,000			1	460,000		
Warehouse/storage	2	340,000	2	340,000				
Change of Use - Commercial	1	0	1					
Subdivision - Residential	2	0	1					2
Totals for Development Types	59	13,797,441						

Total Number of Applications for this period: 54

*** Note: There may be more than one Development Type per Development Application
 Statistics include applications by Private Certifiers

----- End of Report -----



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Print Date: 26/11/2020
Print Time: 8:29:11AM

**Approved Development & Complying Development Applications
 by Dubbo Regional Council and Private Certifiers-Period 1/11/2019 - 30/11/2019**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Dwelling - single	30	7,319,535	27	7,190,555	3	128,980	27	
Dwelling - Secondary/Dual Occ Dwelling	9	2,525,000	9	2,525,000			16	
Dwelling - Dual Occupancy, one storey	2	765,000	2	765,000			3	
Garage/Carport/Roofed Outbuildings	30	488,397	26	331,282	4	157,115		
Fences/Unroofed Structures	2	2,500	2	2,500				
Swimming Pool	6	196,870	6	196,870				
Office Building	2	70,000	1	40,000	1	30,000		
Retail Building	2	351,000			2	351,000		
Warehouse/storage	3	1,247,000	3	1,247,000				
Health Care Facility - Other	1	15,000	1	15,000				
Educational Building	1	4,500,000	1	4,500,000				
Entertainment/Recreational Building	1	119,632			1	119,632		
Signs/Advertising Structure	1	95,000	1	95,000				
Demolition	2	33,109	1		1	33,109		
Home Business	1	0			1			
Subdivision - Residential	3	10,000						6
Subdivision - Rural	1	0						4
Miscellaneous	1	800,000	1	800,000				

**Approved Development & Complying Development Applications
by Dubbo Regional Council and Private Certifiers-Period 1/11/2019 - 30/11/2019**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Totals for Development Types	98	18,538,043						

Total Number of Applications for this period: 91

*** Note: There may be more than one Development Type per Development Application
Statistics include applications by Private Certifiers

----- End of Report -----



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Print Date: 26/11/2020
 Print Time: 8:31:52AM

**Approved Development & Complying Development Applications
 by Dubbo Regional Council and Private Certifiers-Period 1/07/2020 - 30/11/2020**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Dwelling - single	128	39,189,301	93	34,375,121	35	4,814,180	94	1
Dwelling- Transportable/Relocatable	3	601,777	3	601,777			3	
Dwelling - Secondary/Dual Occ Dwelling	16	4,648,000	16	4,648,000			25	
Dwelling - Dual Occupancy, one storey	5	1,860,000	5	1,860,000			9	
Dwelling - Dual Occupancy, >one storey	1	570,000	1	570,000			3	
Medium Density Res - one/two storeys	1	1,000,000	1	1,000,000			4	
Garage/Carport/Roofed Outbuildings	109	2,823,108	106	2,769,108	3	54,000		
Fences/Unroofed Structures	4	58,750	3	39,500	1	19,250		
Swimming Pool	45	1,315,422	45	1,315,422				
Office Building	7	1,076,773			7	1,076,773		
Retail Building	6	847,325			6	847,325		
Hotels	1	460,000			1	460,000		
Office & Retail Building	2	24,500	1	10,000	1	14,500		
Factory/Production Building	5	2,819,747	1	367,500	4	2,452,247		
Warehouse/storage	3	1,250,000	3	1,250,000				
Infrastructure - Transport, Utilities	2	280,000	2	280,000				
Educational Building	2	1,924,500	1	1,900,000	1	24,500		
Community/Public Building	1	80,000			1	80,000		
Signs/Advertising Structure	8	290,015	5	229,815	3	60,200		
Demolition	4	37,000	1	2,000	3	35,000		
Change of Use - Commercial	5	150,000	3	70,000	2	80,000		
Change of Use - Industrial	1	0			1			

**Approved Development & Complying Development Applications
by Dubbo Regional Council and Private Certifiers-Period 1/07/2020 - 30/11/2020**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Agricultural Development	1	300,000	1	300,000				
Subdivision - Residential	11	3,090,000	1					2
Subdivision - Commercial	1	27,000						2
Subdivision - Industrial	2	28,000						5
Miscellaneous	2	44,000			2	44,000		
Alterations and additions to commercial	1	17,293			1	17,293		
Totals for Development Types	377	64,812,511						

Total Number of Applications for this period: 355

*** Note: There may be more than one Development Type per Development Application
Statistics include applications by Private Certifiers

----- End of Report -----



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Print Date: 26/11/2020
 Print Time: 8:30:18AM

**Approved Development & Complying Development Applications
 by Dubbo Regional Council and Private Certifiers-Period 1/07/2019 - 30/11/2019**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Dwelling - single	108	31,326,263	89	29,639,846	19	1,686,417	89	
Dwelling- Transportable/Relocatable	1	269,100	1	269,100			1	
Dwelling - Secondary/Dual Occ Dwelling	22	5,627,169	22	5,627,169			38	
Dwelling - Dual Occupancy, one storey	10	4,070,000	10	4,070,000			18	
Dwelling - Dual Occupancy, >one storey	1	795,625	1	795,625			2	
Garage/Carport/Roofed Outbuildings	93	1,462,270	77	1,125,256	16	337,014		
Fences/Unroofed Structures	5	51,500	5	51,500				
Swimming Pool	37	1,114,145	37	1,114,145				
Office Building	8	1,482,000	3	1,110,000	5	372,000		
Retail Building	9	3,525,014	2	1,900,000	7	1,625,014		
Hotels	1	35,000			1	35,000		
Hostels, Boarding House	1	10,000			1	10,000		
Factory/Production Building	4	2,050,000	3	1,570,000	1	480,000		
Warehouse/storage	4	2,047,000	4	2,047,000				
Infrastructure - Transport, Utilities	5	244,434	2	61,421	3	183,013		
Health Care Facility - Other	1	15,000	1	15,000				
Educational Building	2	4,500,000	1	4,500,000	1			
Entertainment/Recreational Building	1	119,632			1	119,632		
Community/Public Building	4	900,000	2	700,000	2	200,000		
Signs/Advertising Structure	5	134,300	4	111,500	1	22,800		
Demolition	5	83,109	2		3	83,109		
Home Business	1	0			1			

**Approved Development & Complying Development Applications
by Dubbo Regional Council and Private Certifiers-Period 1/07/2019 - 30/11/2019**

Development Type	Number of Applications	Est. \$	New Developments	Est. \$	Additions and Alterations	Est. \$	New Dwellings	New Lots
Change of Use - Commercial	11	283,120	5	21,800	6	261,320		
Subdivision - Residential	14	11,610,000	3	1,070,000				18
Subdivision - Commercial	3	2,055,898						2
Subdivision - Industrial	1	5,600						
Subdivision - Rural	2	0						6
Miscellaneous	3	930,000	3	930,000				
Totals for Development Types	362	74,746,179						

Total Number of Applications for this period: 342

*** Note: There may be more than one Development Type per Development Application
Statistics include applications by Private Certifiers

----- End of Report -----

STATISTICAL INFORMATION ON *SINGLE DWELLINGS AND **OTHER RESIDENTIAL DEVELOPMENTS

		JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
DCC	2011/2012													
	Single Dwellings	6	12	10	6	7	16	4	16	12	8	12	9	118
	Other Residential Developments (No of units)	1 (14)	1 (2)	- (-)	1 (1)	2 (4)	2 (3)	- (-)	- (-)	- (-)	- (-)	- (-)	1 (16)	8 (40)
DCC	2012/2013													
	Single Dwellings	3	7	14	13	9	3	9	9	13	13	15	13	121
	Other Residential Developments (No of units)	4 (8)	6 (6)	- (-)	- (-)	1 (2)	9 (11)	- (-)	- (-)	1 (2)	- (-)	2 (39)	- (-)	23 (68)
DCC	2013/2014***													
	Single Dwellings	23	17	25	20	14	15	19	10	18	14	19	14	208
	Other Residential Developments (No of units)	- (-)	1 (2)	1 (2)	- (-)	- (-)	1 (2)	4 (46)	2 (1)	1 (2)	2 (4)	- (-)	3 (6)	15 (65)
DCC	2014/2015***													
	Single Dwellings	19	34	19	21	13	16	14	12	20	19	15	20	222
	Other Residential Developments (No of units)	3 (6)	1 (2)	6 (31)	5 (50)	6 (6)	12 (21)	- (-)	4 (87)	2 (4)	1 (1)	9 (25)	5 (10)	54 (243)
DCC	2015/2016***													
	Single Dwellings	27	20	26	19	21	26	19	14	16	17	17	22	244
	Other Residential Developments (No of units)	6 (50)	8 (98)	8 (12)	4 (7)	1 (2)	3 (5)	3 (18)	3 (4)	3 (5)	5 (14)	3 (6)	8 (23)	55 (244)
DCC	2016/2017***													
	Single Dwellings	24	13	17	18	12	21	16	18	18	14	18	36	225
	Other Residential Developments (No of units)	8 (10)	5 (10)	7 (13)	4 (7)	6 (10)	5 (16)	3 (6)	2 (75)	1 (2)	5 (8)	4 (13)	7 (14)	57 (184)
DRC	2017/2018***													
	Single Dwellings	26	21	13	12	16	19	4	22	16	21	22	16	208
	Other Residential Developments (No of units)	6 (11)	9 (16)	2 (3)	1 (2)	9 (16)	1 (2)	5 (8)	5 (5)	11 (23)	1 (2)	3 (3)	5 (9)	58 (100)
DRC	2018/2019***													
	Single Dwellings	15	26	13	7	17	8	19	5	8	11	19	6	154
	Other Residential Developments (No of units)	3 (4)	4 (7)	3 (5)	- (-)	6 (11)	2 (29)	2 (4)	1 (1)	5 (12)	7 (25)	9 (15)	5 (10)	47 (123)

		JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
	2019/2020***													
DRC	Single Dwellings	16	11	8	18	27	14	4	5	10	8	8	8	137
	Other Residential Developments	4	4	3	4	11	6	1	4	2	1	1	1	42
	(No of units)	(8)	(7)	(6)	(7)	(19)	(10)	(2)	(7)	(2)	(2)	(2)	(1)	(73)
	2020/2021***													
DRC	Single Dwellings	7	17	21	12	20								77
	Other Residential Developments	5	2	5	6	3								21
	(No of units)	(7)	(4)	(11)	(10)	(4)								(36)

* Single Dwellings = Single 'Dwelling House'

** Other Residential Developments = Dual occupancies, secondary dwellings, multi dwelling housing, seniors housing, shop top housing and residential flat buildings

*** Includes private certifiers



REPORT: Investments Under Section 625 of the Local Government Act - November 2020

AUTHOR: Chief Financial Officer
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1459

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 November 2020.

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 November 2020 has been accounted for on an accrual basis. This report details investments and annualised returns for the month of November 2020.

FINANCIAL IMPLICATIONS

Interest earned on investments has been included within Council's 2020/2021 Operational Plan, with total income generated from the Investment Portfolio forecast to be \$2,500,000.

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 December 2020, be noted.

Michael Howlett
Chief Financial Officer

PORTFOLIO OVERVIEW

The below table details Council's current investment portfolio:

Compliant	Bank Group	Term	Rating	Invested	Invested (%)	Limit (%)	Limit (\$)	Available
✓	Westpac	Long	AA-	52,000,000.00	21.98	100.00	-	184,586,567.63
✓	Commonwealth Bank	Long	AA-	7,005,290.00	2.96	100.00	-	229,581,277.63
✓	NAB	Long	AA-	119,726,411.38	50.61	100.00	-	116,860,156.25
✓	Suncorp	Long	A+	4,000,000.00	1.69	30.00	-	66,975,970.29
✓	Bank of Communications	Long	A-	3,768,498.75	1.59	20.00	-	43,548,814.78
✓	Bank of China	Long	A-	4,498,681.50	1.90	20.00	-	42,818,632.03
✓	Bendigo and Adelaide	Long	BBB+	7,500,000.00	3.17	10.00	-	16,158,656.76
✓	BOQ	Long	BBB+	22,072,500.00	9.33	10.00	-	1,586,156.76
✓	Australian Unity Bank	Long	BBB+	2,000,000.00	0.84	10.00	-	21,658,656.76
✓	AMP Bank	Long	BBB	11,000,000.00	4.65	5.00	-	829,328.38
✓	Newcastle Permanent	Long	BBB	1,015,186.00	0.43	5.00	-	10,814,142.38
✓	Macquarie Credit Union	Long	Unrated	2,000,000.00	0.84	5.00	-	9,829,328.38
TOTALS				236,586,567.63	100.00			

^ NAB is inclusive of Councils cash account.

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

INTEREST INCOME

The below table details payments of interest paid to Council between 1 November 2020 and 30 November 2020:

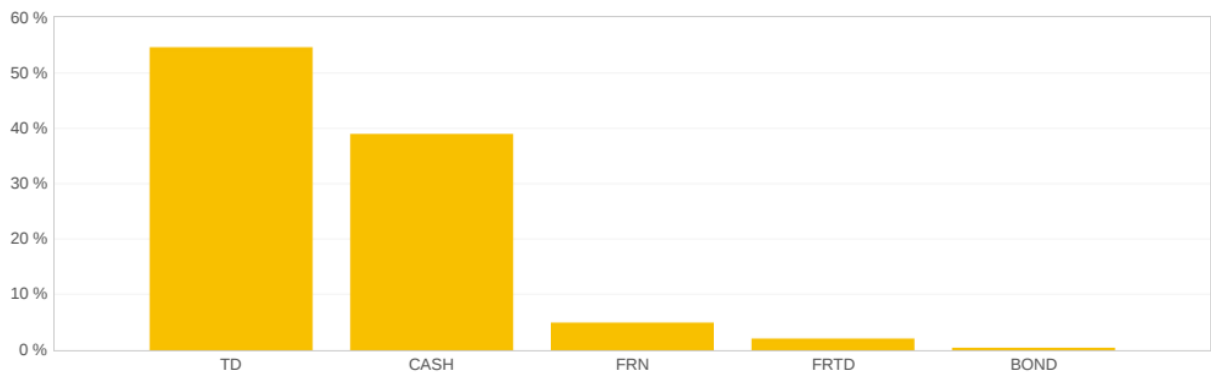
Issuer	Rating	Type	Alloc	Frequency	Value	Purchase	Maturity	Coupon Date	Type	Rate	Received
NAB	AA-	TD	GENERAL	At Maturity	7,000,000.00	02/03/2020	02/11/2020	02/11/2020	Maturity	1.3500	63,431.51
Commonwealth Bank	AA-	FRTD	GENERAL	Quarterly	500,000.00	09/05/2016	10/05/2021	09/11/2020	Periodic	1.1821	1,473.58
Westpac	AA-	TD	GENERAL	Quarterly	2,000,000.00	31/05/2017	31/05/2021	30/11/2020	Periodic	2.9000	14,460.27
Westpac	AA-	TD	GENERAL	Quarterly	2,000,000.00	31/05/2017	31/05/2022	30/11/2020	Periodic	3.0700	15,307.95
TOTALS					11,500,000.00						94,673.30

^ 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:

Code	Number of Trades	Invested	Invested (%)
TD	35	128,572,500.00	54.34
CASH	3	91,726,411.38	38.77
FRN	4	11,285,406.25	4.77
FRTD	3	4,500,000.00	1.90
BOND	1	502,250.00	0.21
TOTALS	45	236,586,567.63	100.0

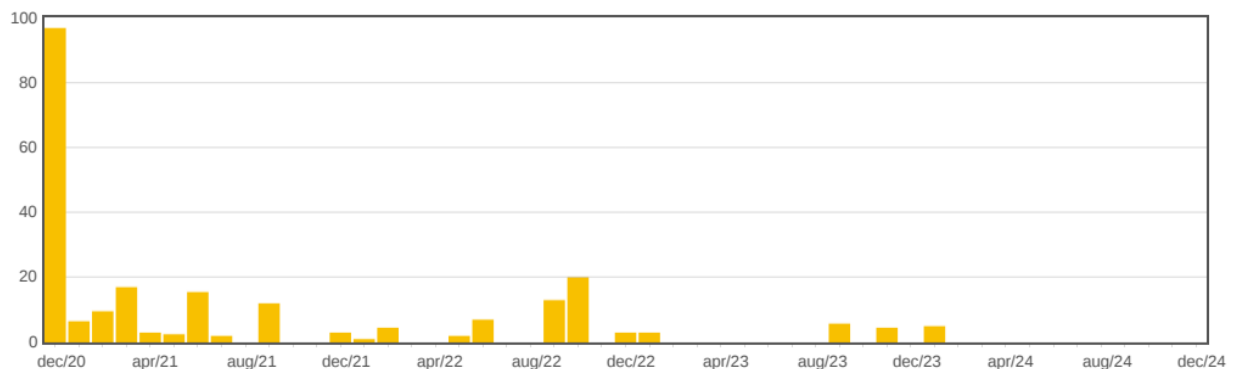


^Legend: TD = Term Deposit, FRTD = Floating Rate Term Deposit, FRN = floating Rate Note

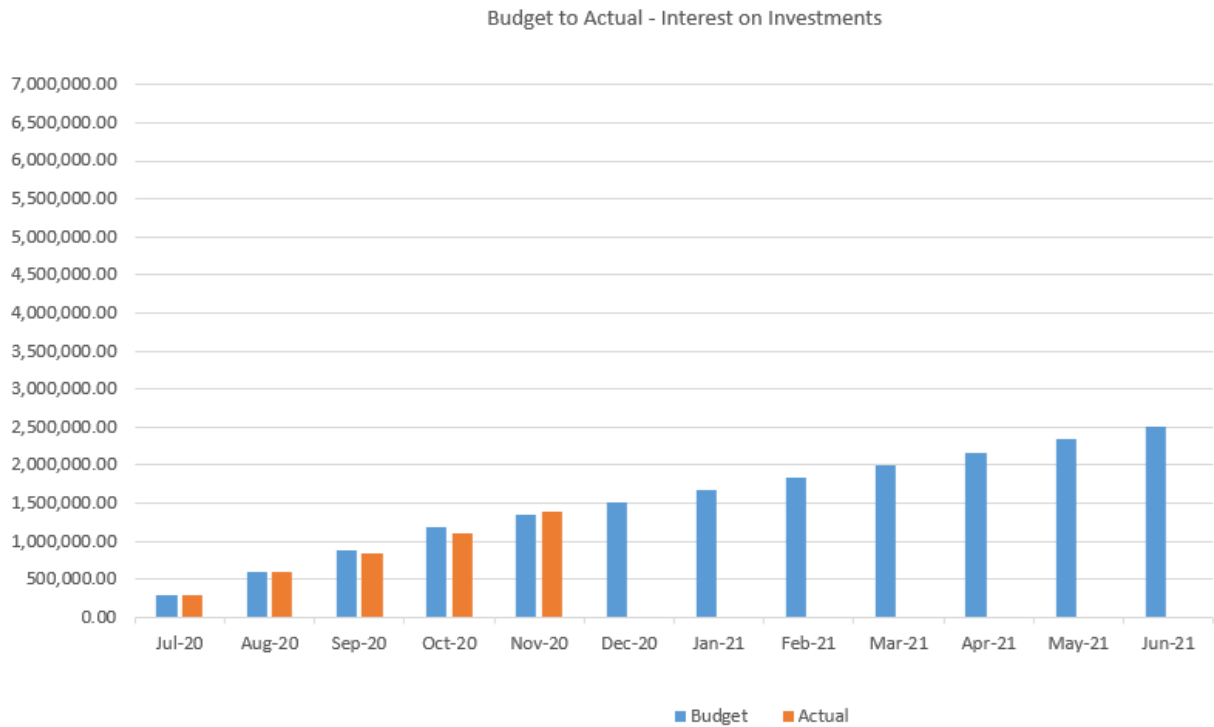
FUTURE MATURITY CASHFLOW

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

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2020	-	-	-	-	-	-	-	-	-	-	-	96,726,411	96,726,411.38
2021	6,505,290	9,572,500	17,000,000	3,000,000	2,500,000	15,500,000	2,000,000	-	12,000,000	-	-	3,000,000	71,077,790.00
2022	1,015,186	4,500,000	-	-	2,000,000	7,000,000	-	-	13,000,000	20,000,000	-	3,000,000	50,515,186.00
2023	3,000,000	-	-	-	-	-	-	-	5,768,498	-	4,498,681	-	13,267,180.25
2024	5,000,000	-	-	-	-	-	-	-	-	-	-	-	5,000,000.00
TOTALS													236,586,567.63



BUDGET TO ACTUAL – INTEREST ON INVESTMENTS



SUMMARY

Cash Account

Disclaimer: At the time of producing the report, the November 2020 Cash Rates had not be released. The 11 AM official Cash Rate listed below is based on October 2020.

Council outperformed the 11am Official Cash Rate market benchmark for 1 month annualised return of 0.25%, achieving a return of 0.50% for its At Call investments for the month of November 2020.

Investment Portfolio

Disclaimer: At the time of producing report, the November 2020 Bloomberg AusBond Bank Bill Index had not been released. The annualised Bloomberg AusBond Bank Bill Index is based on October 2020.

Council outperformed the 1 month annualised Bloomberg AusBond Bank Bill Index of 0.13%, with an average return of 0.80% for its overall portfolio return.



DUBBO REGIONAL
COUNCIL

REPORT: Event Assistance Program - 2020/2021 Round One

AUTHOR: Events and Partnerships Team Leader
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1586

EXECUTIVE SUMMARY

Council at its meeting held 22 June 2020 revised Council's Event Funding Program to include four funding channels. The Partner Events channel is not 'by application' and as such is not referenced in this report. This report covers the three channels of Emerging Events, Community Events and Destination events which consider new events, community events and major events delivering economic benefit to the region. In addition, considerations were undertaken to meet the current conditions and restrictions set by the NSW Government in response to the COVID-19 pandemic. A new online software system, SmartyGrants was also introduced across Council to streamline the process and create a more effective assessment of all funding programs.

Council invited applications for funding under the channels of Emerging Events Fund, Community Events Fund and Destination Events Fund with funding of \$49,833 available to applicants across the three channels. Applications opened on 11 September 2020 and closed on 16 October 2020. Council received one application under the Emerging Events Fund; seven applications for funding under the Community Events Fund and seven events applied under the Destination Events Fund.

Total funding to be allocated are Emerging Event Fund (Nil), Community Event Fund (\$5,835) and Event Destination Fund (\$19,600). The funding will support six events to be held in the Dubbo Local Government Area (LGA) in 2021 calendar year. Combined, these events are expected to inject approximately \$4M into the local economy (including pre-approved event funding).

This report is provided in accordance with Council's Financial Assistance Policy dated 20 August 2020 and is provided to Council for notation.

FINANCIAL IMPLICATIONS

Funding for the 2020/2021 Event Assistance Program is contained within the Regional Events operating budget.

POLICY IMPLICATIONS

This report is provided in accordance with Council's Financial Assistance Policy.

RECOMMENDATION

- 1. That the information within the report from the Events and Partnerships Team Leader dated 1 December 2020, be noted.**
- 2. That event funding applicants be advised on the outcome of their applications.**

Lana Willetts

Events and Partnerships Team Leader

BACKGROUND

Council's Event Funding Program was redeveloped for 2020/2021 to meet the changing needs of the events industry. A survey of event organisers in early 2020 uncovered a demand from Council for staff resources to help arrange and deliver events. In response to the survey, the *Event Support Program Fund* was created to help events to produce safe and successful events. The Program was also streamlined and crafted to support events during the current COVID-19 pandemic, enabling Council to determine funding conditional to future and unknown COVID-19 conditions. This report will recommend funding under the following channels, with funds released conditional to COVID-19 Safety Plans being in place or conditions/restrictions lifted to enable mass gatherings.

Emerging Events Fund

To assist, support and grow local events and drive a mix of social, cultural and economic benefits to the region. Financial assistance as well as staff resources were open for application. Applications are up to a maximum of \$2,000.

Community Events Fund

To assist and support events that deliver social and cultural benefits to the Dubbo Region LGA. Financial assistance as well as staff resources were open for application. Applications are up to a maximum of \$3,000.

Destination Events Fund

Aimed to support, attract and retain events delivering significant economic and reputation benefits. Applications are up to a maximum of \$10,000.

Applications for each channel above opened 11 September 2020 and closed 16 October 2020. All applications were received online via the Smarty Grants Program with the Program rolled-out for its inaugural year.

REPORT

Council invited applications for funding under the 2020/2021 Event Funding Program on 11 September 2020. Applications open for funding were Emerging Events Fund (Round 1 for events held prior to 20 June 2021), Community Events Fund (Round 1 for events held prior to 20 June 2021) and Destination Events Fund (annual fund only for events in the 2021 calendar year).

Applications were open five weeks and the opportunity to apply was communicated as follows:

- Social media via Dubbo Regional Council channels
- Targeted emails to event owners (Dubbo Region Event Network)
- Broad communications via Eblast

Applications closed on 16 October 2020. Council received 15 applications totalling \$80,435 in requested funds, however, some events applied for monies in multiple funds. In accordance with Council's Financial Assistance Policy, a panel was convened comprising of the Manager Regional Events, Council's Grant's Officer and the Cultural Development Coordinator. Each panel member assessed the applications online via Smarty Grants and during the week commencing 26 October 2020. Any application that did not meet an average score of 50% was considered as not meeting minimum requirements and did not receive funding. The panel have provide the recommendations below.

Emerging Event Fund

Total funding available: \$10,000
Total funding amount applied for: \$1,000 (one application)
Total recommended funds: Nil

Event	Date	Venue	Application	Recommendation
Santa Paws (Dubbo Rotary Club)	28 Nov 2020 - 5 Dec 2020	Ollie Robbins Oval	\$1,000.00	Two applications submitted. Application processed under Community Event Fund

Due to COVID-19 impact on events, this event fund will be held over for Round 2 opportunities.

Community Events Fund

Total funding available: \$12,500
Total funding amount applied for: \$17,835 (seven applications)
Total recommended funds: \$5,835 (three applications)

Event	Date	Venue	Application		Recommendation	
			Financial assistance	Resource assistance	Financial assistance	Resource assistance
Under Western Skies Festival (SOMAD Inc)	20 Mar 2021	Dundullimal Homestead	\$3,000	3	\$3,000	3
NSW RSL Youth Club State Championships (Dubbo RSL Community Swimming Club)	13 Mar 2021	Wellington Aquatic Leisure Centre	\$1,835	3	\$1,835	3
Santa Paws (Dubbo Rotary Club)	28 Nov - 5 Dec 2021	Ollie Robbins Oval	\$1,000		\$1,000	
Man from Ironbark Festival (Stuart Town Action Group)	3 Apr 2021	Stuart Town	\$3,000	3	Nil - not recognised event owner	
Dubbo New Year's Eve Fireworks (Dubbo Show Society)	31 Dec 2021	Dubbo Showground	\$3,000	3	Nil - Venue hire included in lease	3
Titan Macquarie Mud Run (Titan Macquarie Mud Run Inc)	<i>Two applications submitted.</i>		\$3,000		<i>Application processed under Destination Events Fund.</i>	
145th Annual Wellington Show (Wellington Show Society)	8-May 2021	Wellington Showground	\$3,000	3	Nil – resources and support to be provided to WSS to apply	3

					for show society funding. If not successful, application to be considered in round two.	
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Resource assistance will be allocated as noted above after consultation with event owners on requirements of assistance and within the capability of Events and Partnership team.

Destination Events Fund

Total funding available: \$27,333
 Total funding amount applied for: \$61,600 (Seven applications)
 Total recommended funds: \$19,600 (Three applications)

Event	Date	Venue	Application	Recommendation
Dubbo Fringe Festival (Newcastle Fringe Festival)	6-May - 8-May 2021	Various	\$10,000	\$7,500
Dubbo Motor Bike Rally (Dubbo Motor Bike Rally Inc)	1-May 2021	Talbragar Street	\$10,000	\$7,500
Little Athletics Region 3 (Little Athletics NSW)	5-7 Feb 2021	Barden Park	\$4,600	\$4,600
Dye Hard Fun Runs (Holicolour)	13-14-Feb 2021	Ollie Robbins Oval	\$8,000	Nil did not meet funding criteria for attracting visitation
Titan Macquarie Mud Run (Titan Macquarie Mud Run Inc)	27 Mar 2021	Ollie Robbins Oval	\$9,000	Nil – did not meet minimum application requirements
Dubbo Show (Dubbo Show Society)	14-16 May 2021	Dubbo Showground	\$10,000	Nil - substantially discounted hire fees of 65% included in Show Society lease which is valued at over \$10,000.
Dubbo's Biggest Sporting Weekend (City of Dubbo Turf Club)	10-13 Sep 2021	Turf Club, Golf Club, Club Dubbo	\$10,000	Nil - did not meet minimum application requirements

It should be noted that a total of \$49,833 funding was available for application with the following funds (\$31,667) allocated under agreement within the 2020/2021 operational budget to assist the following events:

NSW Youth Cricket Championships (September 2021) Year 2 of 3 year funding agreement	\$7,000
NSW Cricket Challenge (January 2021) year 3 of 3 year agreement	\$16,667
Ella 7s Rugby Tournament (March 2021) year 2 of 3 year	\$8,000

The balance of unallocated funding across the three channels will be kept in abeyance to consider applications under Round 2 of the Emerging Event Fund and Community Events Fund which opens in February 2021, or the Signature Event and Major Event Incentive applications.

SUMMARY

Council's Event Funding Program aims to support new events, assist community events to grow and become sustainable, as well as deliver a mix of social, cultural and economic benefits to the Dubbo Region. Whilst the application for event funding has not been as competitive as the previous year, this is considered to be a response to the uncertainty of the event landscape during the pandemic and NSW Government-led restrictions currently in place. In addition, both Emerging and Community Event programs have two rounds available to event organisers and as restrictions ease, the applications for funding are likely to increase.

The six events will receive a combined funding amount of \$25,435 help to facilitate, generate and support social and cultural benefits and continue to enhance the well-being and liveability of residents of the Dubbo Region LGA. Combining the events recommended to receive funding in this report and the three pre-approved events will provide a total economic value of \$5.4 M to the Dubbo region.

**Report of the Dubbo Regional Council
Airports Panel - meeting 9 November
2020**



**DUBBO REGIONAL
COUNCIL**

AUTHOR:

**Administration Officer - Governance &
Internal Control**

REPORT DATE:

23 November 2020

The Committee had before it the report of the Dubbo Regional Council Airports Panel meeting held 9 November 2020.

RECOMMENDATION

That the report of the Dubbo Regional Council Airports Panel meeting held on 9 November 2020, be adopted.



**REPORT
DUBBO REGIONAL COUNCIL AIRPORTS
PANEL
9 NOVEMBER 2020**

PRESENT: Councillors B Shields, G Mohr, J Ryan, the Chief Executive Officer, the Director Culture and Economy and the Manager Dubbo City Regional Airport.

ALSO IN ATTENDANCE:

The Chief Financial Officer and the Finance Partner

Councillor Mohr assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 12.05pm.

DRCAP20/31 WELLINGTON AERODROME FOLLOW-UP LEASES REPORT (ID20/1360)

The Panel was address by the Manager Dubbo City Regional Airport regarding this matter.

RECOMMENDATION

1. That the CEO have discussions with the Dubbo Car Club regarding licence expectations.
2. That the CEO provide a report to the December Council Meeting detailing usage, asset, technical and legal advice provided to the Panel in regards to Wellington Aerodrome and Recreation Park.

DRCAP20/32 BALLINA DESTINATIONS FOLLOW-UP AND POTENTIAL NEW DESTINATION (ID20/1361)

The Panel was address by the Manager Dubbo City Regional Airport regarding this matter.

RECOMMENDATION

That the Manager Dubbo City Regional Airport continue to explore with discussed destination and seek partnership approach with the relevant Council.

DRCAP20/33 GENERAL BUSINESS (ID20/1362)

Items of General Business were:

- The Director Culture and Economy, the Manager Dubbo City Regional Airport and the Chief Financial Officer presented on the financial position of the Dubbo City Regional Airport.
- The Manager Dubbo City Regional Airport is to discuss the Rural Fire Service partnerships with Corporate Image and Communication.
- The Manager Dubbo City Regional Airport provided an update on the landside Bar under development at the Dubbo City Regional Airport.

DRCAP20/34 LEAVE OF ABSENCE

No requests were received.

The meeting closed at 1:40pm.

.....
CHAIRMAN



REPORT: Councillor and Mayoral Fees

AUTHOR: Chief Executive Officer
REPORT DATE: 20 November 2020
TRIM REFERENCE: ID20/731

EXECUTIVE SUMMARY

The Local Government Remuneration Tribunal has handed down its determinations for 2020/2021 and while it should be noted that the Tribunal determined that there will be no increase in Mayoral and Councillor Fees for the 2020/2021 financial year, Dubbo Regional Council was re-categorised as a Regional Centre Council, rather than the previous categorisation of a Regional Rural Council during 2019/2020 (see Circular to Councils 20-23 – 2020/21 Determination of the Local Government Remuneration Tribunal attached as **Appendix 1**).

For Regional Centre Councils, the Councillor Annual Fee is a minimum of \$13,820 and a maximum of \$24,320. The Mayor Additional Fee is a minimum of \$28,750 and a maximum of \$60,080.

It is proposed that Council adopt the maximum fees as determined by the Local Government Remuneration Tribunal for 2020/2021 for Councillor and Mayoral Fees.

FINANCIAL IMPLICATIONS

The amounts included in the draft 2020/2021 Operational Plan and Budget for Councillor fees and the Mayoral fee will be adjusted to fund the maximum amounts currently determined by the Tribunal.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

- 1. That pursuant to the provisions of Section 248(2) of the Local Government Act 1993, the annual fee payable to Councillors for the period commencing 1 July 2020 be \$24,320.**
- 2. That pursuant to the provisions of Section 249(3) of the Local Government Act 1993, the annual fee payable to the Mayor for the period commencing 1 July 2020 be \$60,080.**

Michael McMahan
Chief Executive Officer

BACKGROUND

In respect of Councillor and Mayoral Fees for 2019/2020, Dubbo Regional Council was classified as a Regional Rural Council. At its Ordinary meeting held 27 May 2019, it was recommended that Council adopt the maximum fees as determined by the Local Government Remuneration Tribunal for 2019/2020. Accordingly, Council resolved as follows:

1. *That pursuant to the provisions of Section 248(2) of the Local Government Act 1993, the annual fee payable to Councillors for the period commencing 1 July 2019 be \$20,280.*
2. *That pursuant to the provisions of Section 249(3) of the Local Government Act 1993, the annual fee payable to the Mayor for the period commencing 1 July 2019 be \$44,250.*

REPORT

In accordance with section 248 of the Local Government Act 1993, Council is required to pay each Councillor an annual fee. It further states that Council may fix the annual fee, and if it does, the annual fee must be in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

It should also be noted that the annual fee must be the same for each Councillor, acknowledging that the Mayor also receives a Mayoral Fee in addition to the Councillor Fee and that if Council does not fix the annual fee, the minimum fee determined by the Remuneration Tribunal must be paid.

The Local Government Remuneration Tribunal has handed down its determinations for 2020/2021 and while it should be noted that the Tribunal determined that there will be no increase in Mayoral and Councillor Fees for the 2020/2021 financial year, Dubbo Regional Council was one of 24 councils re-categorised as a Regional Centre Council, rather than the previous categorisation of a Regional Rural Council during 2019/2020 (see Circular to Councils 20-23 – 2020/21 Determination of the Local Government Remuneration Tribunal attached as **Appendix 1**).

For Regional Centre Councils, the Councillor Annual Fee is a minimum of \$13,820 and a maximum of \$24,320. The Mayor Additional Fee is a minimum of \$28,750 and a maximum of \$60,080.

The following eight Councils were all reclassified as Regional Centre Councils for 2020/2021 and voted to adopt the maximum fees as determined by the Local Government Remuneration Tribunal for 2020/2021 Regional Centre Councils:

- Albury City Council
- Armidale Regional Council (under an Interim Administrator)
- Bathurst City Council
- Maitland City Council
- Orange City Council
- Port Macquarie-Hastings Council
- Tamworth Regional Council
- Tweed Shire Council

The following Councils, though also reclassified as Regional Centre, voted not to adopt the maximum fees for 2020/2021, remaining at the same or similar fees to 2019/2020:

- Wagga Wagga City Council
- Lismore City Council

SUMMARY

It is proposed that Council adopt the maximum fees as determined by the Local Government Remuneration Tribunal for 2020/2021 for Councillor and Mayoral Fees.

Appendices:

- 1 [Circular to Councils 20-23 – 2020/21 Determination of the Local Government Remuneration Tribunal](#)

Circular Details	20-23 / 22 June 2020 / A707486
Previous Circular	19-07 2019/20 Determination of the Local Government Remuneration Tribunal
Who should read this	Councillors / General Managers
Contact	Council Governance Team/ 02 4428 4100/ olg@olg.nsw.gov.au
Action required	Councils to Implement

2020/21 Determination of the Local Government Remuneration Tribunal

What's new or changing

- The Local Government Remuneration Tribunal (the Tribunal) has determined that there will be no increase in mayoral and councillor fees for the 2020/21 financial year.
- The Tribunal is required to determine the remuneration categories of councils and mayoral offices at least once every 3 years under section 239 of the *Local Government Act 1993* (the Act). The Tribunal last undertook a significant review of the categories in 2017 and has undertaken a review as part of its 2020 determination.
- For the Metropolitan group the Tribunal has determined to retain the existing categories and has amended the population criteria applicable to Metropolitan Large and Metropolitan Medium.
- For the Non-Metropolitan group, the Tribunal has determined to:
 - create two new categories - Major Strategic Area and Regional Centre
 - rename one category - Regional City to Major Regional City, and
 - revise the criteria for some of the existing categories to account for the new categories.
- The Tribunal has determined the following categories:

Metropolitan	Non-Metropolitan
Principal CBD	Major Regional City
Major CBD	Major Strategic Area
Metropolitan Large	Regional Strategic Area
Metropolitan Medium	Regional Centre
Metropolitan Small	Regional Rural
	Rural

- Each council is allocated into one of these categories based on criteria identified by the Tribunal in Appendix 1 of its determination.

What this will mean for your council

- Sections 248 and 249 of the Act require councils to fix and pay an annual fee based on the Tribunal's determination for the 2020/21 financial year.
- While there is to be no increase in fees paid for the 2020/21 financial year, mayors and councillors in some councils may receive an increase as a result of a change to their council's categorisation.

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 Locked Bag 3015 NOWRA NSW 2541
 T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
 E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 20 770 707 468

•

Key points

- The level of fees paid will depend on the category the council is in.
- A council cannot fix a fee higher than the maximum amount determined by the Tribunal.
- If a council does not fix a fee, the council must pay the minimum fee determined by the Tribunal.

Where to go for further information

- The Tribunal's report and determination is available at www.remtribunals.nsw.gov.au/local-government.
- For further information please contact the Council Governance Team on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



Tim Hurst
Deputy Secretary
Local Government, Planning and Policy

Office of Local Government
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DUBBO REGIONAL
COUNCIL

REPORT: Quarterly Report on Documents Executed Under the Power of Attorney

AUTHOR: Governance and Internal Control
Manager
REPORT DATE: 18 November 2020
TRIM REFERENCE: ID20/1516

EXECUTIVE SUMMARY

At the February 2018 Ordinary meeting of Council held 26 February 2018, Council resolved:

1. *That Council delegate to Michael Gerard McMahon, General Manager, a prescribed power of attorney in accordance with the General Power of Attorney attached to the report as Appendix 1.*
2. *That Council authorise the Mayor and Deputy Mayor to execute the General Power of Attorney under the Common Seal of the Council.*
3. *That the General Manager report to Council every three months on all documents signed under the prescribed Power of Attorney.*

In accordance with point three of this resolution, this report provides a listing of documents signed under the Power of Attorney delegated to the Chief Executive Officer from 1 September 2020 to 30 November 2020.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

That the information contained within the report of the Governance and Internal Control Manager dated 18 November 2020, be noted.

Susan Wade
Governance and Internal Control Manager

REPORT

In accordance with point three of the abovementioned resolution, following is a listing of documents signed under the Power of Attorney delegated to the Chief Executive Officer from 1 September 2020 to 30 November 2020, for your information:

Date Sealed	Details of Document
9/09/2020	Sale contract - Keswick Estate Stage 5 Release 1 - Lot 556 to Lewis Michael Blattman - DP1241303
9/09/2020	Sale contract - Keswick Estate Stage 5 Release 1 - Lot 523 to Rowland Mavinyu - DP 1241303
14/09/2020	Execution of Subdivision - Keswick Estate Stage 5 Release 1 - Administration sheet and 88B Conveyancing document
15/09/2020	Land Swap Deed - Dubbo Regional Council and Dubbo RSL Memorial Club Ltd - Keswick Estate Dubbo Part Lot 339 DP 124303 and Dubbo City Bowling Club, Lot 415 DP 754308
25/09/2020	Execution of Plan of Easement for Gas Main 3 Wide - Lot 22 DP 1223592 - Moffatt Estate - Lot 22 DP 1223592
24/09/2020	Sale contract - Moffatt Estate Stage 3 - Lot 36 to Timothy David Michael Barrett and Erin May Barrett - DP 1223592
24/09/2020	Sale contract - Moffatt Estate Stage 3 - Lot 47 to Steven Neville Cohen and Melinda Jill Cohen and Lachlan Edward Downey and Phillipa Gay Downey - DP 1223592.
24/09/2020	Sale Contract - Moffatt Estate Stage 3 - Lot 48 to Payrob Pty Ltd - DP 1223592
24/09/2020	Sale Contract - Moffatt Estate Stage 3 - Lot 45 to Paul McCallum Pty Ltd as trustee for The McCallum Superannuation Fund - DP 1223592
24/09/2020	Sale contract - Moffatt Estate Stage 3 - Lot 44 to Benjamin John Knight and Philip James Knight - DP 1223592
7/10/2020	Land Swap Deed - Land swap between Dubbo Regional Council and Dubbo RSL Memorial Club Ltd - Keswick Estate and Dubbo City Bowling Club.
7/10/2020	Sale contract - Land swap between Dubbo Regional Council and Dubbo RSL Memorial Club Ltd - Lot 415 DP 754308 - Dubbo City Bowling Club
7/10/2020	Sale Contract - Land swap between Dubbo Regional Council and Dubbo RSL Memorial Club Ltd - Lot 502 DP 1255115 - Volta Avenue Keswick Estate
4/11/2020	Deposited Plan Administration Sheet - 88B Conveyancing document - Amended Plan of Consolidation to allow creation of easement for Jemena Gas Networks and Telstra - Temesvary Superannuation Fund



REPORT: Draft Code of Conduct and Procedures for the Administration of the Code of Conduct - Following Public Exhibition

AUTHOR: Internal Ombudsman
REPORT DATE: 23 November 2020
TRIM REFERENCE: ID20/1538

EXECUTIVE SUMMARY

Council at its meeting held 28 September 2020 resolved as follows with regard to the Draft Code of Conduct and Procedures for the Administration of the Code of Conduct.

- 1. That the Draft Code of Conduct and the Draft Procedures for the Administration of the Code of Conduct, attached as Appendix 1 and 2, be noted.*
- 2. That the Draft Code of Conduct and the Draft Procedures for the Administration of the Code of Conduct, be placed on public display for a period of not less than 28 days.*
- 3. That following conclusion of the public exhibition process, a further report be presented to Council."*

The policy and procedure were placed on public exhibition from 23 October 2020 until 15 November 2020. No public submissions were received following the exhibition.

It is recommended that the draft Code of Conduct and the draft Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW, attached to this report **Appendix 1 and 2**, be adopted.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

Once adopted the Code of Conduct and Procedure become Council's adopted Code.

RECOMMENDATION

That the draft Code of Conduct and the Procedures for the Administration of the Code of Conduct attached to the report of the Internal Ombudsman dated 23 November 2020, as Appendix 1 and 2, be adopted.

Nicola Eggleton
Internal Ombudsman

REPORT

The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (the Procedures) have been amended by the Office of Local Government in response to the decision by the Supreme Court in the matter of *Cornish v Secretary, Department of Planning, Industry and Environment* [2019] NSWSC 1134.

The amendments to the Model Code of Conduct and the Procedures are outlined below.

Amendments to the Procedures for the Administration of the Model Code of Conduct

Consistent with the Supreme Court's decision, Councils now have the following options when taking disciplinary action against Councillors for breaches of their codes of conduct under the new Procedures:

- that a Councillor be formally censured for the breach under section 440G of the *Local Government Act 1993* (the Act), or
- that a Councillor be formally censured for a breach under section 440G and the matter referred to Office of Local Government for further disciplinary action under the misconduct provisions of the Act.

The process for censuring Councillors for breaches of the Code of Conduct has been significantly strengthened to ensure Councillors are made publicly accountable for their conduct. When censuring Councillors, Councils are required to specify in their resolution the grounds on which the councillor is being censured by disclosing the investigator's findings and determination and any other grounds that the Council considers may be relevant or appropriate.

Councillors may seek to avoid public censure for breaches of the code of conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the Council. Investigators can finalise their investigations without a report to the Council where they consider these to be an appropriate outcome to the matter they are investigating. However, it will remain open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.

The referral process of Council of Code of Conduct breaches by Councillors to the Office of Local Government for further disciplinary action under the misconduct provisions of the Act has been streamlined. Investigators are required to consult with the Office of Local Government before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow the Office of Local Government to take further disciplinary action.

Other amendments that have been made to the Procedures to:

- allow panels of conduct reviewers to be appointed without a resolution of the Council, and
- allow the referral of investigators' reports to the Office of Local Government for action under the misconduct provisions of the Act where the Council will not have a quorum to deal with the matter.

Amendments to the Model Code of Conduct

The Model Code of Conduct has been amended to:

- remove as a breach, failure to comply with a Council resolution requiring action in relation to a code of conduct breach (because it is now redundant)
- update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards
- include in the definition of Council committee and council committee members, members of Audit, Risk and Improvement committees (ARICs) in anticipation of the commencement of the requirement for all councils to appoint an ARIC following the next local government elections.

Amendments have also been made to the gifts and benefits provisions of the Model Code of Conduct however Dubbo Regional Council has retained its 'zero gift policy' stance, detailed in Part 6 of Council's Code of Conduct policy.

Appendices:

- 1 [↓](#) Draft - Revised Council Policy - Code of Conduct - September 2020
- 2 [↓](#) Draft - Revised Procedures for the Administration of the Model Code of Conduct - updated - August 2020



COUNCIL POLICY

CODE OF CONDUCT POLICY

Date	Insert date
Council Resolution Date	Insert date
Clause Number	Insert clause
Responsible Position	Executive Manager – Governance and Internal Control
Branch	Governance and Internal Control
Division	Executive Services
Version	2.0
TRIM Reference Number	Insert ED
Review Period	Two (2) years
Next Review Date	October 2020
Consultation	Not applicable

Document Revision History	
Description	Date
Adopted by Council	
Revision	
Adopted by Council	

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PART 1 INTRODUCTION

This Code of Conduct is based on the Model Code of Conduct published by the Office of Local Government.

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 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 organisations 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 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.

PART 2 DEFINITIONS

In this code the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
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.
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, an 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
conduct	includes acts and omissions
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>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
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 statuses, 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* (WH&S Act). You must comply with your duties under the WH&S 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 WH&S 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 Chief Executive Officer or such other staff member nominated by the Chief Executive Officer, 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 WH&S 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 3.16, 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 3.16 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 3.16 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 Chief Executive Officer
 - (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 Chief Executive Officer (or if the person is the Chief Executive Officer, 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer must keep a register of returns required to be made and lodged with the Chief Executive Officer.
- 4.25 Returns required to be lodged with the Chief Executive Officer 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 Chief Executive Officer 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 A disclosure made at a meeting of a Council or Council committee must be recorded in the minutes of the meeting.
- 4.31 A general notice may be given to the Chief Executive Officer 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.
- Notwithstanding this notice, a Councillor or committee member must still declare this interest during the relevant section of the respective meeting detailing the reason for their interest.
- 4.32 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.
- 4.33 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.
- 4.34 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.
- 4.35 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.

4.36 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.

4.37 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.

4.38 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 Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, 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 Chief Executive Officer, 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 Chief Executive Officer, 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 Chief Executive Officer 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 Chief Executive Officer in writing of the employment, work or business and the Chief Executive Officer has given their written approval for the staff member to engage in the employment, work or business.

5.25 The Chief Executive Officer 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

- 6.1 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.
- 6.2 A reference to a gift or benefit in this Part does not include:
 - a) a political donation for the purposes of the *Electoral Funding Act 2018*
 - b) 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,
 - c) attendance by a Council official at a work-related event or function for the purposes of performing their official duties, or
 - d) free or subsidised meals, beverages or refreshments of token value 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 your attendance at an event (including conferences, workshops, meetings) is in the capacity of representing Council.
 - g) accept any gift, benefit or prizes where your attendance at an event (including conferences, workshops, meetings) is in the capacity of representing Council.
 - h) personally benefit from reward points programs when purchasing on behalf of the Council.
- 6.6 Where you receive, or are offered, 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 Chief Executive Officer in writing. The recipient, manager, or Chief Executive Officer 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 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 Dubbo Regional Council has adopted a policy that does not allow for the acceptance of any gift or benefit, unless rare and extenuating circumstances present or refusal may offend. On such an occasion, gifts that do not exceed \$50 in value are to be immediately surrendered in accordance with clause 6.7 unless approved by the Chief Executive Officer.

Gifts and benefits of more than token value

Gifts or benefits that exceed \$50 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.

6.9 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 \$50, 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.

6.10 Where you have accepted a gift or benefit of token value from a person or organisation subject to clause 6.8, 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 \$50 in value.

6.11 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”

- 6.12 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

- 6.13 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.
- 6.14 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.

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PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of Councillors and Administrators

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.

7.1 Councillors or Administrators must not:

- a) direct Council staff other than by giving appropriate direction to the Chief Executive Officer 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 Chief Executive Officer
- 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.

7.2 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

7.3 Under section 335 of the LGA, the role of the Chief Executive Officer 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.

7.4 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

7.5 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 or Administrators making personal statements or 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) Council staff making personal statements or attacks on Councillors or Administrators or engaging in conduct towards Councillors or Administrators that would be contrary to the general conduct provisions in Part 3 of this code in public forums, **including social media**
- j) Councillors and Administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make
- k) 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
- l) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- m) 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 Chief Executive Officer or, in the case of the Mayor or Administrator, unless they are exercising their functions under section 226 of the LGA.

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PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and Administrator access to information

- 8.1 The Chief Executive Officer is responsible for ensuring that Councillors and Administrators can access information necessary for the performance of their official functions. The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer or public officer determines, 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 Chief Executive Officer 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) and public areas of Council's buildings during normal business hours and for meetings. Access during business hours must be co-ordinated through the Chief Executive Officer to ensure that the required facilities are available. Councillors and Administrators needing access to these facilities at other times must obtain authority from the Chief Executive Officer.
- 8.26 Councillors and Administrators must not enter staff-only areas of Council buildings without the approval of the Chief Executive Officer (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.

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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 Chief Executive Officer 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 Chief Executive Officer in accordance with the Procedures.

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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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer, 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 Chief Executive Officer 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 Chief Executive Officer in a register of returns. The Chief Executive Officer 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
--	--------------------

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)

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

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

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

E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June	Nature of 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

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.

DRAFT

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 ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² <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>	

¹ 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.

² 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.

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>	

[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 Chief Executive Officer and included in full in the minutes of the meeting]

DRAFT



Procedures for the Administration of the Model Code of Conduct

Date	Insert date
Council Resolution Date	Insert date
Clause Number	Insert clause
Responsible Position	Executive Manager – Governance and Internal Control
Branch	Governance and Internal Control
Division	Executive Services
Version	2.0
TRIM Reference Number	Insert
Review Period	2 years
Review Date	Insert
Next Review Date	Month 2022
Consultation	Not applicable

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Description	Date
Adopted by Council	8 April 2019
Document revised to accord with Office of Local Government's 'Procedures for the Administration of the Model Code of Conduct for Local Councils NSW' which was updated August 2020.	September 2020
Notes	

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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
CEO	Chief Executive Officer

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 Chief Executive Officer 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	referred to at Dubbo Regional Council as the Chief Executive Officer (CEO)
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 4000 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

- 3.13 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.
- 3.14 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.
- 3.15 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.
- 3.16 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 Chief Executive Officer (CEO) 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 CEO 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 CEO 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 CEO or their delegate, or, in the case of a complaint about the CEO, 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 CEO be made?

- 4.6 All code of conduct complaints other than those relating to the CEO are to be made to the CEO 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 CEO 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 CEO, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The CEO 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 CEO 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 CEO be made?

- 4.11 Code of conduct complaints about the CEO 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 CEO 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 CEO, 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 CEO, 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 CEO and mayors of their functions under this Part

- 5.1 A CEO 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 CEO 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, CEO's 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 CEO or, in the case of a complaint about the CEO, 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 CEO) to be dealt with?

- 5.4 The CEO 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 CEO 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 CEO 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 CEO decides to take no action in relation to a code of conduct complaint about a member of staff of council, the CEO 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 CEO 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 CEO 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 CEO 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 CEO decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the CEO 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 CEO considers it to be practicable and appropriate to do so, the CEO 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 CEO resolves a code of conduct complaint under clause 5.14 to the CEO's satisfaction, the CEO 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 CEO
 - 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 CEO or any person making enquiries on behalf of the CEO 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 CEO 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 CEO must refer all code of conduct complaints about administrators to the Office for its consideration.

5.19 The CEO 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 CEO 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 CEO refers a complaint to the Office under clause 5.20, the CEO must notify the complainant of the referral in writing.

5.22 The CEO 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 CEO decides to take no action in relation to a code of conduct complaint about a councillor, the CEO 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 CEO considers it to be practicable and appropriate to do so, the CEO 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 CEO resolves a code of conduct complaint under clause 5.24 to the CEO's satisfaction, the CEO 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 CEO 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 CEO 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 CEO, 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 CEO, 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 CEO, 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 CEO, 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 CEO and the mayor to be dealt with?

- 5.34 Where the CEO or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the CEO and the mayor, the CEO 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 CEO 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 CEO, 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 CEO, 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 CEO, 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 CEO.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the CEO, 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 CEO 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 CEO 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 CEO 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 CEO 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 CEO 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 CEO, 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 CEO to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the CEO that have not been referred to an external agency or declined or resolved by the CEO, 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 CEO 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 CEO 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 CEO or, in the case of a complaint about the CEO, 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 CEO 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 CEO 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 CEO or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the CEO or to the mayor to be resolved by alternative and appropriate means, they must write to the CEO or, in the case of a complaint about the CEO, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the CEO or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The CEO 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 CEO or mayor under clause 6.13(c), the CEO or, in the case of a complaint about the CEO, 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 CEO or mayor under clause 6.13(c), the CEO, or, in the case of a complaint about the CEO, 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 CEO, or, in the case of alleged conduct on the part of the CEO, to the mayor.
- 7.3 The CEO 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 CEO, or in the case of a complaint about the CEO, 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 CEO, or, in the case of a complaint about the CEO, 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 CEO,

or in the case of a complaint about the CEO, 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 CEO, that disciplinary action be taken under the CEO'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 CEO or, where the report relates to the CEO'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 CEO, that disciplinary action be taken under the CEO'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 CEO or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The CEO must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The CEO 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.

PART 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.

PART 11 REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE CEO

- 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 CEO 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.

PART 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 CEO 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 CEO 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 CEO or their delegate.

12.5 The CEO 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 CEO 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 CEO 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.

DRAFT



REPORT: Public Interest Disclosures and Internal Reporting Policy - Results of Public Exhibition

AUTHOR: Internal Ombudsman
REPORT DATE: 23 November 2020
TRIM REFERENCE: ID20/1541

EXECUTIVE SUMMARY

Council at its meeting held 28 September 2020 resolved as follows with regard to the Draft Code of Conduct and Procedures for the Administration of the Code of Conduct.

- 1. That the information contained within the report of the Internal Ombudsman dated 15 September 2020, be noted.*
- 2. That the draft Public Interest Disclosures and Internal Reporting Policy, as attached to the report of the Internal Ombudsman as Appendix 1, be place on public display for a period of not less than 28 days.*
- 3. That following conclusion of the public exhibition process, a further report be presented to Council."*

The policy was publicly exhibited from 22 October to 18 November 2020, with no public submissions received by Council.

The Draft Public Interest Disclosures and Internal Reporting policy is again presented to Council with the recommendation it be adopted by Council.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

Once adopted the Code of Conduct and Procedure become Council's adopted Code.

RECOMMENDATION

That the Draft Public Interest Disclosures and Internal Reporting Policy attached to the report of the Internal Ombudsman dated 23 November 2020, as Appendix 1, be adopted.

Nicola Eggleton
Internal Ombudsman

REPORT

Under section 6D of the Public Interest Disclosures Act 1994 (PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures.

The Public Interest Disclosures and Internal Reporting Policy was developed in 2016 in accordance with the recommendation of the NSW Ombudsman's Office and is based on the model policy, and guidelines, provided by the NSW Ombudsman's Office. This revised Public Interest Disclosures and Internal Reporting Policy accords with the July 2020 Model Code for Internal Reporting from the NSW Ombudsman's Office. Additionally Dubbo Regional Council's current Disclosures Officers are listed in Schedule A. 'Nominated Disclosures Officers' – attached to the policy.

The previous Public Interest Disclosures Policy was provided for three Nominated Disclosure Officers. The three officers were all located within the one building and did not encourage access for wider Council staff. Accordingly, a number of additional Disclosure Officers have been selected and attended training in October 2019.

The Policy now includes the additional wording "The Executive Manager of Governance and Internal Control is authorised to update Schedule A. 'Nominated Disclosures Officers' as required to reflect staffing changes and the inclusion of further Disclosures Officers." This will allow for the 'Nominated Disclosures Officers' document to be amended to include more staff after they are trained to become Disclosures Officers, new staff and review of outcomes.

The NSW Ombudsman's Office has stated that the policy should:

- be strongly endorsed by the Mayor and the Chief Executive Officer
- show Council's commitment to high standards of ethical and accountable conduct and confirms that it will not tolerate any form of wrongdoing
- conform with the Council's Code of Conduct and/or other relevant ethical codes
- address the relevant provisions of the Public Interest Disclosures Act
- state that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within Council
- outline Council's broader responsibilities under the Public Interest Disclosures Act, such as reporting on public interest disclosures
- state that it is supported by procedures based on the Ombudsman's guidelines
- refer to any other relevant policies or procedures, such as Council's Code of Conduct and Grievance Policy, and provide information about how staff can access that information
- be publicly available on Council's website
- be implemented by Council through staff awareness training.

Council at its meeting held 28 September 2020 resolved as follows with regard to the Draft Code of Conduct and Procedures for the Administration of the Code of Conduct.

- “1. That the information contained within the report of the Internal Ombudsman dated 15 September 2020, be noted.*
- 2. That the draft Public Interest Disclosures and Internal Reporting Policy, as attached to the report of the Internal Ombudsman as Appendix 1, be place on public display for a period of not less than 28 days.*
- 3. That following conclusion of the public exhibition process, a further report be presented to Council.”*

The policy was publicly exhibited from 22 October to 18 November 2020, with no public submissions received by Council.

Accordingly, it is recommended that this revised Public Interest Disclosures and Internal Reporting Policy, as attached as **Appendix 1** be adopted.

Appendices:

- [1↓](#) Draft Council Policy Public Interest Disclosures and Internal Reporting



COUNCIL POLICY

Public Interest Disclosures and Internal Reporting Policy

Date	Insert date
Council Resolution Date	Insert date
Clause Number	Insert clause
Responsible Position	Executive Manager – Governance and Internal Control
Branch	Governance and Internal Control
Division	Executive Services
Version	2.0
TRIM Reference Number	Insert
Review Period	2 years
Review Date	Insert
Next Review Date	Month 2022
Consultation	Not applicable

Document Revision History	
Description	Date
This draft policy has been based on the Model Policy as provided by Ombudsman New South Wales	October 2016
Adopted by Council	24 October 2016
Terminology and formatting updated. Reviewed to accord with July 2020 Model Code for Internal Reporting from Ombudsman NSW. Schedule document 'Nominated Disclosures Officers' included.	August 2020
Adopted by Council	Insert date
Notes	

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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 Dubbo Regional Council, what can be reported and how reports of wrongdoing will be dealt with by Dubbo 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 the Grievance Resolution Management Procedure. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Council's Human Resources Branch to be dealt with in accordance with the Grievance Resolution Management Procedure.

It should be noted that in the event Council is under Administration, Council's Administrator, has the same role and responsibilities of that of a Councillor or the Mayor.

2. Organisational commitment

Dubbo Regional Council is strongly committed to creating a culture where reports of wrong doing 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 individuals to come forward if they are aware of wrongdoing within the council
- keep the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate
- protect the person 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 rectify it
- keep the individual who makes 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 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.

The policy needs to be signed by both the Mayor and the Chief Executive Officer.

Under the PID Act, the Chief Executive Officer, as the head of the public authority is responsible for ensuring that:

- the 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
- the Council complies with the policy and the 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 NSW 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 Dubbo Regional Council
- employees of contractors providing services to Dubbo 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 Dubbo 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 Dubbo Regional Council's Code of Conduct. A breach of the Code could result in disciplinary action.

b. The role of the Dubbo Regional Council

Dubbo 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.

Dubbo 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 Dubbo Regional Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. The Dubbo Regional Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Dubbo Regional Council must report on its obligations under the PID Act and provide statistical information about public interest disclosures in Council's annual report and to the NSW Ombudsman every six months.

To ensure the Dubbo 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

Chief Executive Officer

The Chief Executive Officer, or Interim Chief Executive Officer, has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Dubbo Regional Council complies with the PID Act. The Chief Executive Officer 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 the Council's Code of Conduct in accordance with the 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

Dubbo Regional Council's Disclosures Officer is the Internal Ombudsman. The Disclosures Coordinator has a central role in Council's internal reporting system and can receive and assess reports, being the primary point of contact in Dubbo 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 Chief Executive Officer)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- coordinate Dubbo Regional 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 Dubbo Regional Council 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. Dubbo Regional Council has made it easier for staff wanting to make a disclosure by increasing the number of staff who are Disclosure Officers. Trained Disclosure Officers are now located in a number of Council work locations. Please refer to Schedule Document 1, attached, for details of the current Disclosures Officers at Council.

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 Chief Executive Officer for full assessment.

Mayor (Or Administrator)

The Mayor can receive reports from staff and Councillors about the Chief Executive Officer. 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 the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- refer reports to an investigating authority, where appropriate

- liaise with the Disclosures Coordinator (Internal Ombudsman) 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 Managers

Supervisors and Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and 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 Chief Executive Officer 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 Chief Executive Officer, notify the Mayor.

5. What should be reported?

You should report any suspected wrongdoing within Dubbo Regional Council, or any activities or incidents you see within the Dubbo Regional Council that you believe are wrong.

Reports about 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, Dubbo Regional Council recognises such reports may raise important issues. Council will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

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 DA 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 Chief Executive Officer 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?

Dubbo Regional 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 Chief Executive Officer or, for reports about the Chief Executive Officer, the Mayor, a position nominated in this policy (see section 8).

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 the Dubbo 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.

The following positions are the only people within Dubbo Regional 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 Chief Executive Officer. If your report relates to the Chief Executive Officer, you should make it to the Mayor.

Chief Executive Officer

- Michael McMahon
mgm@dubbo.nsw.gov.au – (02) 6801 4110

Mayor (for reports about the General Manager only)

- Ben Shields
mayor@dubbo.nsw.gov.au – (02) 6801 4100

Disclosures Coordinator

- Internal Ombudsman – Nicola Eggleton
Nicola.Eggleton@dubbo.nsw.gov.au – (02) 6801 4112

Dubbo Regional Council's current Disclosures Officers are listed in Schedule A. 'Nominated Disclosures Officers' – attached. The Executive Manager of Governance and Internal Control is authorised to update Schedule A. '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 Dubbo Regional Council

Staff and councillors are encouraged to report wrongdoing within the Dubbo Regional Council, but internal reporting is not your only option. You can also make a public interest disclosure to an investigating authority.

a. Investigating authorities

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 Chief Executive Officer or the Mayor.

The relevant investigating authorities for the Dubbo Regional Council are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the Ombudsman — for reports about maladministration
- the Information Commissioner — for disclosures about a breach of the GIPA Act
- the Office of Local Government— for disclosures about local councils including pecuniary interest breaches.

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 Dubbo Regional Council. Council 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. Council 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, you may not be protected under the PID Act. This may mean you will be in breach of legal obligations or Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Dubbo Regional 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. Dubbo Regional Council's Internal Reporting Form which is included within this policy is also available for staff or Councillors to use to make a report.

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 Dubbo Regional 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 Council does not know who made the report, it is very difficult for Council 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, Dubbo Regional 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, Dubbo Regional 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.

Council will provide this information to you within ten (10) working days from the date you make your report. Council 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 Dubbo Regional 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

Dubbo Regional 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 Council will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. Council will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, Council 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 Chief Executive Officer, or in the case of a report about the Chief Executive Officer, 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 Council 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, Dubbo Regional 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, Dubbo Regional 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

Dubbo Regional 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 Dubbo Regional Council has reasonable grounds to take such action.

a. 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 Chief Executive Officer 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 Chief Executive Manager, the Mayor can alternatively be notified.

If the Dubbo Regional 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.

b. 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

Dubbo Regional 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 currently offers an Employee Assistance Program and details can be sourced from Council's People Culture and Safety branch or on Councilpedia.

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. Dubbo Regional 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

Dubbo Regional 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 Dubbo Regional Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

19. Review

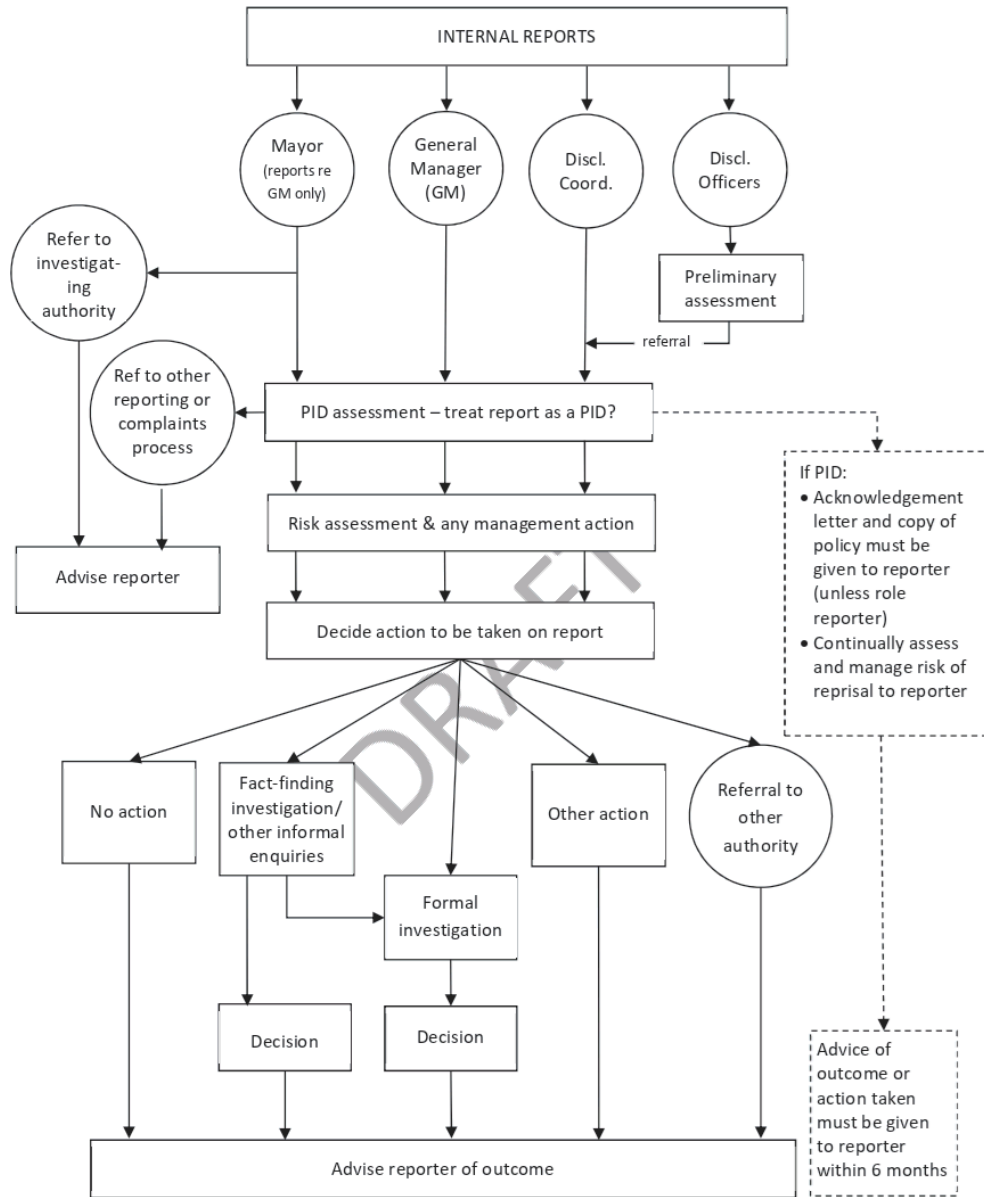
This policy will be reviewed by the Dubbo Regional Council every two years.

20. More information

More information around public interest disclosures is available on Councilpedia. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

DRAFT

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
Web: www.icac.nsw.gov.au
Address: Level 21, 133 Castlereagh Street,
Sydney NSW 2000

**For disclosures about breaches of the GIPA Act:
Information Commissioner**

Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 11, 1 Castlereagh 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
Web: 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
Web: www.olg.nsw.gov.au
Address: 5 O'Keefe Avenue, Nowra, NSW 2541



Internal Report Form

To be completed and submitted to a nominated Disclosures Officer

(Refer to Council's Internal Reporting Policy for further details)

Details of reporter <i>(You can make an anonymous report by leaving this section blank)</i>		
Name:		
Position:		
Division/Branch/Section:		Preferred method of contact
Telephone:		<input type="checkbox"/> Telephone
Email:		<input type="checkbox"/> Email
Postal address:		<input type="checkbox"/> Post
Details of the wrongdoing being reported		
Please indicate what category of serious misconduct you are reporting		
<input type="checkbox"/> Corrupt Conduct	<input type="checkbox"/> Maladministration	<input type="checkbox"/> Serious and substantial waste of public money
<input type="checkbox"/> Breach of the GIPA Act	<input type="checkbox"/> Local Government pecuniary interest contravention	
Description:		
<ul style="list-style-type: none"> • <i>What happened?</i> • <i>Where did this happen?</i> • <i>When did this happen?</i> • <i>Is it still happening?</i> <i>[Attach an additional page if required]</i>	DRAFT	
How did you become aware of this?		
Name and position of people involved in the wrongdoing:	Name	Position
Attach any additional relevant information or indicate where supporting evidence may be found:	Supporting evidence	Attached
		<input type="checkbox"/>
		<input type="checkbox"/>
Name and position of other people who may have additional information:	Name	Position
Statement		
I honestly believe that the above information shows or tends to show wrongdoing.		
_____ Signature of reporter <i>(Do not sign if you want to make an anonymous report)</i>	_____ Date report submitted <i>(Essential information)</i>	

SCHEDULE A.

Nominated Disclosures Officers		
Staff Member	Position	Work Location
Maria Cristante	Executive Manager, People Culture and Safety	Council Administration Building, Level 1
Abbey Rouse	Executive Manager, Governance and Internal Control	Council Administration Building, Level 1
Michael Howlett	Chief Financial Officer	Council Administration Building, Level 1
Tim Nicholls	Team Leader, Economic Development	Carrington Avenue
Desmond Mackay	Team Leader, Natural Resources	Dubbo Works Depot
Lana Willetts	Team Leader, Events and Partnership Team	Carrington Avenue
Gavin Bornham	Compliance and Risk Officer	Dubbo Regional Saleyards
Ian Edison	Caves Engagement Officer	Wellington Caves
Samuel McGregor	Fleet Hire and Finance Officer	Dubbo Works Depot
Grant Everett	Fleet Maintenance Coordinator	Dubbo Works Depot



DUBBO REGIONAL
COUNCIL

REPORT: Proposed Planning Policy for Solar and Wind Energy Farms

AUTHOR: Senior Growth Planner
REPORT DATE: 25 November 2020
TRIM REFERENCE: ID20/1544

EXECUTIVE SUMMARY

Solar Energy Farms and Wind Energy Farms are both a type of *Electricity Generating Works*. Under the provisions of the Dubbo Local Environmental Plan 2011 and the Wellington Local Environmental Plan 2012, *Electricity Generating Works* mean "a building or place used for the purpose of—(a) making or generating electricity, or (b) electricity storage".

There has been much interest and growth in Solar Energy Farms as well as Wind Energy Farm developments in the Dubbo Regional Local Government Area (LGA).

Council at its meeting on 26 August 2019 adopted a Council Planning Agreement Policy for Solar Energy Farms. This Policy recognises that the impacts of such developments need to be carefully considered and planned for, including any impacts on the community.

Taking into account the objectives above, the Council Policy for Solar Farm Developments is proposed to be extended to include Wind Farm Developments and also apply to all lands in the Dubbo Regional LGA. The draft amended Policy is provided as **Appendix 1**.

This draft amended Policy requests developers of Solar Energy Farms and Wind Energy Farms to enter into a Planning Agreement with Council for the following values:

- \$3,350 per wind turbine proposed to be installed paid to Council per annum (subject to CPI) for applicable Wind Farms;
- \$3,500 per Mega Watt of Alternating Current [AC] installed capacity [energy exported to the grid] paid to Council (subject to CPI) from applicable Solar Energy Farms.

Following Council's consideration of the draft amended Policy, a further report will be prepared for the consideration of Council following completion of a public exhibition process.

FINANCIAL IMPLICATIONS

This draft amended Policy requests developers of electricity generating works to enter into a Planning Agreement with Council in the following manner:

- \$3,350 per wind turbine proposed to be installed paid to Council per annum (subject to CPI) for applicable Wind Farms, or

- \$3,500 per Mega Watt of Alternating Current [AC] installed capacity [energy exported to the grid] paid to Council (subject to CPI) from applicable Solar Energy Farms.

Any such Planning Agreement would enable a process for the provision of infrastructure and services under Section 7.11 and 7.12 of the Environmental Planning and Assessment Act, 1979.

POLICY IMPLICATIONS

If the draft amended Policy is ultimately adopted by Council, the Policy will guide future Solar and Wind Energy Farm proponents to enter into Planning Agreements with Council.

RECOMMENDATION

- 1. That the report from the Senior Growth Planner dated 25 November 2020 be noted.**
- 2. That the draft amended draft Planning Agreement Policy as attached in Appendix 1 to the report of the Senior Growth Planner be adopted for the purposes of undertaking detailed community and stakeholder consultation.**
- 3. That the draft Planning Agreement Policy for Solar and Wind Energy Farms be placed on public display for a period of no less than 28 days and in accordance with the provisions of the Environmental Planning and Assessment Act 1979.**
- 4. That following completion of the public exhibition period a further report be provided to Council, including any submissions received during the public exhibition period.**

Shoilee Iqbal
Senior Growth Planner

BACKGROUND

There has been much interest and growth in Solar and Wind Energy Farm developments in the Dubbo Regional LGA. Solar Energy Farms and Wind Energy Farms are both a type of *Electricity Generating Works*. Under the provisions of Dubbo Local Environmental Plan 2011 and Wellington Local Environmental Plan 2012, Electricity Generating Works mean "a building or place used for the purpose of—(a) making or generating electricity, or (b) electricity storage".

Currently Council has a Planning Agreement Policy in place only for Solar Energy Farms located within the former Wellington Local Government Area. This Policy was adopted by Council in August 2019.

This report recommends that the above Policy be amended to apply to both Solar Energy Farms as well as Wind Energy Farms. Furthermore, the draft amended Policy is proposed to apply to all land within the Dubbo Regional LGA.

REPORT

1. Existing Policy and Proposed Amended Policy for Solar and Wind Energy Farms

Currently Council has a Planning Agreement policy for Solar Energy Farms located within the former Wellington Local Government Area only. However, given the growth in both Solar and Wind Energy Farms in the Dubbo Regional LGA, it is proposed to amend this Planning Agreement Policy to include both Solar Energy Farms as well as Wind Energy Farms located anywhere in the Dubbo Regional LGA. The draft amended Policy is provided as **Appendix 1**.

The proposed draft amended Policy for Solar and Wind Energy Farms continues to recognise that the impacts of such development types need to be carefully considered and planned for, including any cumulative and ongoing impacts on the broader community.

The proposed draft amended Policy requests developers of Solar Energy Farms and Wind Energy Farms to enter into a Planning Agreement with Council in the following manner:

- \$3,350 per wind turbine proposed to be installed paid to Council per annum (subject to CPI) for applicable Wind Farms,
- \$3,500 per Mega Watt of Alternating Current [AC] installed capacity [energy exported to the grid] paid to Council (subject to CPI) from applicable Solar Energy Farms.

The intent of the draft amended Planning Agreement Policy is:

- To establish an efficient, fair, transparent and accountable framework governing the use of planning agreement by Council;
- To enhance planning flexibility in Council's area through the use of Planning Agreements;

- To enhance the range and extent of development contributions made by development towards public facilities in Council's area; and
- To set out Council's specific policies on the use of Planning Agreements.

The proposed draft amended Policy will provide guidance to both Solar and Wind Energy Farms in the Dubbo Regional LGA and sets a framework for Council to negotiate Planning Agreements with future proponents.

2. Planning Agreements

Planning Agreements were introduced to the EP&A Act on 8 July 2005. A Planning Agreement is an agreement entered into by Council and a developer where the developer agrees to fund public amenities or infrastructure, dedicate land at no cost to Council, provide monetary contributions or any other material public benefit, for a public purpose. In accordance with the EP&A Act 1979, a public purpose includes any of the following:

- The provision of public amenities or services;
- The provision of affordable housing;
- The provision of transport or other infrastructure relating to land;
- The funding or recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
- The monitoring of the planning impacts of development; and
- The conservation or enhancement of the natural environment.

The NSW Planning System allows for the consideration of the impacts of development on the community through Planning Agreements under the provisions of the Environmental Planning and Assessment Act 1979. The use of Planning Agreements has increased as a result of their flexibility in allowing councils to capture public benefits outside of the contribution planning structure where there is a need for an innovative and flexible approach to deliver public infrastructure and services.

3. Public Exhibition

Following Council's consideration of the proposed draft amended Policy, it will be placed on public display for a period of no less than 28 days, in accordance with the provisions of the Environmental Planning and Assessment Act 1979. The result of this consultation will be provided to Council for consideration following conclusion of the public exhibition period.

SUMMARY

The proposed draft amended Planning Agreement Policy for Solar and Wind Energy Farms will ensure that impacts of such developments are carefully considered and planned for, including any impacts on the broader community.

This report outlines the main components of the new draft amended Council Policy for Planning Agreements for both Solar and Wind Energy Farms in the Dubbo Regional LGA. The draft amended Policy is provided in **Appendix 1**.

The draft amended Policy is designed to provide consistent and clear information to developers of Solar and Wind Energy Farms seeking to enter into a Planning Agreement with Council and ensure the process is transparent.

It is recommended that the draft amended Policy be adopted by Council for the purposes of public exhibition, and be placed on public display for a period of no less than 28 days.

Appendices:

[1](#) Draft - Amended Planning Agreement Policy for Solar and Wind Energy Farms



COUNCIL POLICY

Planning Agreement Policy for Solar and Wind Energy Farms

Date 20 November 2020
Council Resolution Date
Clause Number
Responsible Position Director Development and Environment
Branch Growth Planning
Division Development and Environment
Version 2
TRIM Reference Number
Review Period Two (2) years
Review Date
Consultation

Document Revision History	
Description	Date
Notes	

POLICY

PURPOSE

This Policy establishes a framework to guide the preparation of Planning Agreements with respect to Solar Energy Farms and Wind Energy Farms in the Dubbo Regional Local Government Area (LGA).

BACKGROUND AND RELATED LEGISLATION

Solar Energy Farms and Wind Energy Farms are types of *Electricity Generating Works*. Under the provisions of the Dubbo Local Environmental Plan 2011 and the Wellington Local Environmental Plan 2012, *Electricity Generating Works* are “a building or place used for the purpose of—(a) making or generating electricity, or (b) electricity storage”.

There has been much interest and growth in Solar Energy Farms and Wind Energy Farm developments in the Dubbo Regional LGA. This Policy recognises that the impact of such development types needs to be carefully considered and planned for, including any broader community impacts.

The NSW Planning System allows for the consideration of the impacts of development on the community through the Planning Agreement process under the provisions of the Environmental Planning and Assessment Act, 1979.

Planning Agreements

A Planning Agreement is an agreement entered into by Council and a developer where the developer agrees to fund public amenities or infrastructure, dedicate land at no cost to Council, provide monetary contributions or any other material public benefit, for a public purpose. A public purpose may include any of the following:

- A community facility;
- Affordable housing;
- Transport or other infrastructure relating to the development;
- The funding of recurrent expenditure relating to the provision of community facilities, affordable housing or transport or other infrastructure;
- The monitoring of the planning impacts of development, and
- The conservation or enhancement of the natural environment.

The use of Planning Agreements has increased as a result of their flexibility in allowing councils to capture public benefits outside of the infrastructure contributions system where there is a need for an innovative and flexible approach to deliver public infrastructure and services.

This draft amended Planning Agreement Policy for Solar and Wind Energy Farms ensures the impacts of Solar and Wind Energy Farms are carefully considered and planned for, including any impacts on the broader community.

SCOPE

This Policy applies to any Solar Energy Farms or Wind Energy Farms proposed to be undertaken in the Dubbo Regional Local Government Area. This Policy also applies to State or Regional Development with a cost excess of \$5 million.

POLICY

Process for entering into a Planning Agreement

Council, as part of any proposal, is required to consider a variety of matters as to whether a Planning Agreement should be entered into including:

- Will it meet Council's strategic objectives?
- Will its use meet the fundamental principles governing the use of Planning Agreements?
- Will its use fit within the described circumstances in which Council will consider negotiating a Planning Agreement?

If Council decides it is appropriate to enter into a Planning Agreement on consideration of the matters above, Council and the developer must agree on the value as discussed in this draft amended Policy.

To ensure transparency across the Planning Agreement process, Planning Agreements are required to be placed on public exhibition for a minimum of 28 days. Council is also required to consider any submissions made during the public exhibition period.

Solar Energy Farms

- (a) Solar Energy Farm proponents are encouraged to enter into a Planning Agreement or another legally binding agreement with Council.
- (b) A Planning Agreement or other legally binding agreement for solar energy farms could have the following structure:
 1. Strategic Analysis (this would include funds towards Council's planned strategic framework to empower the community to manage the impacts of large scale solar development).
 2. Community Benefit Program (for example this could be towards for the provision of a dedicated program benefitting the broader community in the Dubbo Regional LGA).
 3. Community Benefit Fund (this would account for the remainder of the Planning Agreement funds and be open to community groups through an application process).
 4. Road Maintenance Levy (this would allow the proponent to provide funds to Council to be used towards the maintenance and upkeep of impacted roads in the immediate locality).

- (c) The funds associated with component 1 above would consist of upfront payments over a defined period. The funds associated with components 2 and 3, being the Community Benefit Program and Community Benefit Fund, would potentially be offered on an annual basis for the life of the project.

It should be noted that the framework as provided above involves some impact on local infrastructure, including road maintenance requirements.

- (d) In respect of Solar and Wind Energy Farm developments, Council has developed the Dubbo Regional Council Solar and Wind Farm Consultative Committee. The role of the committee is to consider recommendations for the expenditure of community benefit funds across solar and wind energy farm developments.
- (e) The value of the funds to be provided by the proponent as part of a Planning Agreement or other legally binding agreement shall be \$3,500 (plus CPI) per Mega Watt of energy from an applicable Solar Energy Farm.
- (f) That the funds apportioned between the separate components of the Planning Agreement be subject to negotiations between Council and the Proponent.
- (g) That this Planning Agreement structure and purpose shall only be in respect of accounting for any community impacts, including the surrounding localities. Any other specific impacts of a development shall be subject to a separate negotiation and consideration process, with the \$3,500 (plus CPI) per Mega Watt in respect of community impacts only. However, this could include a road maintenance levy.
- (h) Council can consider an alternative proposal from a Solar Energy Proponent. However, the alternative proposal must be equal to or greater than \$3,500 (plus CPI) per Mega Watt of Energy.
- (i) Council can consider another form of legally binding agreement, which is not a Planning Agreement.

Wind Energy Farms

- (a) Wind Energy Farm proponents will be encouraged to enter into a Planning Agreement with a value of \$3,350 per turbine proposed to be installed (subject to CPI), paid to Council per annum.
- (b) The value of the funds to be provided by the proponent as part of a Planning Agreement or other legally binding agreement shall be no less than \$3,350 per turbine proposed to be installed from an applicable Wind Energy Farm (subject to CPI).
- (c) Council can consider an alternative proposal from a Wind Energy Proponent. However, the alternative proposal must be equal to or greater than \$3,350 per turbine (subject to CPI).
- (d) Council can consider another form of legally binding agreement, which is not a Planning Agreement.

- (e) That this Planning Agreement structure and purpose shall only be in respect of accounting for any wider community impacts, including the surrounding localities. Any other specific impacts of a development shall be subject to a separate negotiation and consideration process, with the \$3,350 per turbine cost (subject to CPI).
- (f) Any Planning Agreement payments for Wind Energy Farms will contain four (4) separate components as per below:

1. Strategic Analysis

Part 1 of the Planning Agreement would be a financial amount paid over the first five (5) years of the Planning Agreement and would be for Council to undertake a range of strategic planning activities particularly in respect to the proposed development.

2. Strategic Projects

Part 2 of the Planning Agreement would be for the provision of funding for strategic projects throughout the Local Government Area, and for the life of the Planning Agreement/project. These projects would ideally be identified in a Council approved Strategy or Plan, and could include the Community Strategic Plan and the relevant Delivery Program and Operational Plan or a subsidiary Plan or Action Plan of Council.

3. Community Benefit Fund

This component of the Planning Agreement will be towards a Community Benefit Fund style program, paid per annum, for the life of the project. Community benefit funds may be used for any eligible programs anywhere across the Dubbo Regional LGA.

In respect of Solar and Wind Energy Farm developments, Council has developed the Dubbo Regional Council Solar and Wind Farm Consultative Committee. The role of the committee is to consider recommendations for the expenditure of community benefit funds across solar and wind energy farm developments

4. Planning Agreement and any associated Maintenance Works

In addition to the Planning Agreement associated with community and other benefits, it is considered best for Planning Agreements to include a component for ongoing maintenance of any infrastructure impacted in the locality. A maintenance levy will be charged separately where there are impacts on any community infrastructure, paid per annum to Council, for the life span of the development.

RESPONSIBILITIES

The Director of Planning and Environment is responsible for the enforceable of this Policy.



DUBBO REGIONAL
COUNCIL

REPORT: Draft Mobile Food Vendor Policy

AUTHOR: Compliance Officer Environment and Health

REPORT DATE: 17 November 2020

TRIM REFERENCE: ID20/1474

EXECUTIVE SUMMARY

Dubbo Regional Council currently has nine Mobile Food Vendors that are approved under Section 68 of the *Local Government Act 1993* to operate in the Dubbo Regional Local Government Area (LGA).

A section 68 Approval is required to engage in trade or business on public land and use a standing vehicle or any article for the purpose of selling any article in a public place.

Mobile Food Vendors authorised to operate in the Dubbo Regional LGA include coffee vans, smoko vans and ice cream vans. These vans travel within the Dubbo Regional LGA providing food and beverage items for sale from a public roadway.

Section 68 Mobile Food Vendor Approvals are valid for a period of 12 months.

FINANCIAL IMPLICATIONS

Section 68 Approvals have an initial application fee which is payable for all new businesses and an annual approval fee. These fees are charged as per the current fees and charges stated in the Council's Revenue Policy.

POLICY IMPLICATIONS

The draft Mobile Food Vendor Policy, subject to adoption by Council, will assist in providing a clear and concise response to the management of all Mobile Food Vendor Vehicles operating within the Dubbo Regional LGA.

RECOMMENDATION

That the draft Mobile Food Vendor Policy as attached to the report of the Compliance Officer Environment and Health as Appendix 1, be adopted.

Helen Eyre

Compliance Officer Environment and Health

BACKGROUND

In Accordance with the *Food Act 2003*, all food businesses (including mobile food vendor vehicles) are required to notify their activity to Local Council. In addition, under section 68 of the *Local Government Act 1993*, an approval is required to engage in trade or business on public land and using a standing vehicle or any article for the purpose of selling any article in a public place.

REPORT

The aim of the Mobile Food Vendor Policy is to outline the processes required in order to register and issue an Approval to operate a Mobile Food Vendor Vehicle. The Policy also outlines the processes and requirements that need to be met in order to be approved.

The Policy states the relevant legislation for issuing an approval. The following legislation governs Mobile Food Vending Vehicles:

- Local Government Act 1993
- Local Government Regulation 2005
- Food Act 2003
- Food Regulation 2015
- Australian Food Standards Code
- Protection of the Environment Operations Act 1997
- Road Transport (vehicle registration) Regulation 2017
- Roads Act 1993
- Road Transport (General) Act 2013

An inspection of the vehicle is required to ensure that the setup is appropriate for the safe storage, preparation handling and sale of food.

SUMMARY

Dubbo Regional Council is responsible for the regulation and inspection of Mobile Food Vendor Vehicles.

Approvals to sell food from Mobile Food Vending Vehicles are issued subject to a list of conditions that include where, when and how long a mobile food vendor can operate.

It is recommended that Council adopt the draft Mobile Food Vendor Policy provided as in **Appendix 1**.

Appendices:

- [1](#) Draft Mobile Food Vendor Policy



COUNCIL POLICY

Mobile Food Vendor Policy

Date	November 2020
Council Resolution Date	
Clause Number	
Responsible Position	Environment and Health Services Team Leader
Branch	Environmental Compliance
Division	Development and Environment
Version	One
TRIM Reference Number	
Review Period	Every two (2) years
Review Date	November 2022
Consultation	Public consultation (from/to dates)

Document Revision History	
Description	Date
Notes	

POLICY

1. PURPOSE

- 1.1 The purpose of the Mobile Food Vendor Policy is to provide a clear and concise Policy for the management of all Mobile Food Vendor Vehicles operating or intending to operate within the Dubbo Regional Local Government Area (LGA).
- 1.2 The principal goals of the Mobile Food Vendor Policy are to:
- Outline the requirements for the administration of Mobile Food Vendor Vehicle registration and approval to operate with the Dubbo Regional Council.
 - Detail the processes that need to occur in order to obtain approval from Council
 - Ensure that the construction, fit out and operation of the Mobile Food Vendor Vehicle are appropriate for the safe storage, preparation, handling and sale of food.
 - Minimise risk to the public from Mobile Food Vendor Vehicles.
- 1.3 This policy does not apply to street stalls or roadside stalls. Roadside stalls are not permitted in the Dubbo Regional LGA.

2. BACKGROUND AND RELATED LEGISLATION

- 2.1 Under the provisions of the *Food Act 2003*, and the Food Regulation Partnership with the NSW Food Authority, Council is the relevant enforcement agency for the retail sale of food from all premises (except butchers) within the LGA, including Mobile Food Vendor Vehicles.
- 2.2 This policy has been developed to supplement the relevant legislation that governs mobile food vending including provisions of the;
- *Local Government Act 1993,*
 - *The Local Government (General) Regulation 2005,*
 - *Food Act 2003,*
 - *Food Regulation 2015,*
 - *Australian Food Standards Code,*
 - *Protection of the Environment Operations Act 1997,*
 - *Road Transport (Vehicle Registration) Regulation 2017,*
 - *Roads Act 1993;*
 - *Road Transport (General) Act 2013.*

3. SCOPE

- 3.1 This policy applies to all proprietors selling food through a Mobile Food Vendor Vehicle within Dubbo Regional LGA.
- 3.2 This policy does not apply to any Mobile Food Vendor Vehicles operating with a Development Consent or under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

In accordance with the *Food Act 2003*, all Food Businesses (including Mobile Food Vendor Vehicles) are required to notify their activity to the local authority (Council). In addition, under the provisions of the *Local Government Act 1993*, an approval is required to engage in trade or business on Public Land and use a standing vehicle or any article for the purpose of selling any article in a Public Place. This Policy combines the notification and approval process.

4. DEFINITIONS

To assist in interpretation, the following definitions apply:

Term	Definition
Mobile Food Vendor Vehicle	A Mobile Food Vendor Vehicle is any vehicle, including but not limited to a truck, van, trailer or scooter used for the retail sale of food, direct to the consumer on a public roadway. It does not include a food transport vehicle used to deliver food from a fixed food business to the consumer.
Food	Includes: <ol style="list-style-type: none"> a) Any substance or thing of a kind used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared) or b) Any substance or thing of a kind used, represented as being for use, as an ingredient or additive in a substance or thing referred to in paragraph (a), or c) Any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing), if it comes into direct contact with the substance or thing referred to in that paragraph, such as a processing aid, or d) Chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum, or e) Any substance or thing declared to be a food under a declaration in force under section 6 of the food standards Australia New Zealand Act 1991 of the Commonwealth, whether the substance, thing or chewing gum is in a condition fit for human consumption. <p>However, food does not include a therapeutic good within the meaning of the Therapeutic Goods Act 1989.</p> <p>To avoid doubt, food may include live animals and plants.</p>
Food business	Means a business, enterprise or activity that involves: <ol style="list-style-type: none"> a) the handling of food intended for sale, or b) the sale of food, <p>regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.</p>
Sell	Means to: <ol style="list-style-type: none"> a) Barter, offer or attempt to sell, or b) Receive for sale, or

	<ul style="list-style-type: none"> c) Have in possession for sale, or d) Display for sale, or e) Cause or permit to be sold or offered for sale, or f) Send, forward for deliver for sale, or g) Dispose of by any method for valuable consideration, or h) Dispose of to an agent for sale on consignment, or i) Provide under a contract of service, or j) Supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee of a term of the employee's contract of service, for consumption by the employee at the employee's place of work, or k) Dispose of by way of raffle, lottery, or other game of chance or l) Offers as a prize or reward, or m) Give away for the purpose of advertising or in furtherance of trade or business, or n) Supply food under contract (whether the contract is made with the consumer of the food), together with accommodation, service, or entertainment, in consideration of an include charge for the food supplied and the accommodation, service or entertainment, or o) Supply food in the course of providing services to patients in public hospitals or inmates in correctional centres, or p) Sell food for the purpose of resale.
Public Place	<ul style="list-style-type: none"> a) A public reserve, public bathing reserve, public baths or public swimming pool, or b) A public road, public bridge, public wharf, or public road-ferry, or c) A Crown reserve comprising land reserved for future public requirements, or d) Public land or Crown land that is not: <ul style="list-style-type: none"> I. A Crown reserve (other than a Crown reserve that is a public place because of paragraph (a) (b) (c) or II. A common, or III. Land subject to the Trustee of Schools of Art Enabling Act 1902, or IV. Land that has been sold or leased or lawfully contracted to be sold or leased, or e) Land that is declared by the regulations to be a public place for the purposes of this definition.
Public Land	Means land that is classified as community or operational land under <i>Division1 of Part 2 of Chapter6 of the Local Government Act 1993.</i>

5. GENERAL REQUIREMENTS

5.1 Design and Construction Requirements

Mobile Food Vendor Vehicles must be designed, constructed and fitted out in accordance with:

- NSW Food Authority's "Guidelines for Mobile Food Vendor Vehicles",
- *Food Act 2003* and *Food Regulation 2015*
- Food Safety Standards – Australian Food Standards Code.
- Due to the implications of Covid 19 mobile food vans need to undertake Covid safe practices such as ensuring social distancing of patrons.

5.2 Use of Separate Premises

5.2.1

Food preparation at home or any other premises for the purpose of selling from a Mobile Food Vehicle may require development approval. Contact Council's Duty Planner for further information.

5.2.2

Any separate premises must comply with the *Food Act 2003*, the Food Safety Standards and AS4674 - Design, construction and fit out of food premises.

5.3 Fees and Charges

Application and inspection fees will be charged in accordance with Council's adopted fees and charges, revised each financial year. Applications will not be accepted without payment of the applicable fee.

5.4 Refunds

5.4.1

There will be no refunds of annual application and inspection fees, except as detailed in 5.4.2 below.

5.4.2

The Manager of Councils Environment and Compliance Branch may consider a request for a refund of fees in extenuating circumstances. Requests shall be made in writing and will be assessed on individual merit.

5.5 Insurance

An Application for Approval to operate as an Itinerant Food Vendor must include a copy of the operator's current public and product liability insurance. The operator must maintain an insurance policy in respect to public and product liability to a combine total of not less than \$20 million for any one occurrence and in the aggregate.

5.6 Non-Compliance

If Council becomes aware that a condition of an Approval has not been complied with, it may modify or revoke the approval and/or require remedial action to be undertaken.

In the event that a proprietor of a Mobile Food Vendor Vehicle does not comply with the requirements of this policy, the *Food Act 2003*, Food Standards Code or any other relevant legislation, code, standard or policy, Council's Authorised Officers may initiate appropriate regulatory action in accordance with Council's Compliance and Enforcement Policy.

6 APPROVALS

6.1 Operators of a Mobile Food Vendor Vehicle trading on the road or in a public place must apply and receive Approval to operate as a Mobile Food Vendor before operating in the Local Government Area. The Approval is required to use a standing vehicle or any article for the purpose of selling any article in a Public Place, in accordance with *section 68 of the Local Government Act 1993*. For the purposes of this policy, a standing vehicle includes any Mobile Food Vendor Vehicle, which has stopped on a public roadway to make a sale, or with the intention to sell food.

6.2 Mobile Food Vendor Vehicle operators should seek information from the Road and Maritime Services (RMS) for their driver and vehicle licences and registration requirements.

7 APPLICATION PROCESS

An application for a Mobile Food Vendor Vehicle trading approval must be submitted annually.

An application for Approval must include:

- A completed application for Approval to Sell Food in a Public Place from a Vehicle or Article form (see attachment).
- Payment of relevant fees.
- A copy of the Mobile Food Vendor Vehicle operator's current public and product liability insurance. The operator must maintain an insurance policy in respect to public and product liability to a combined total of not less than \$20 million for any one occurrence and in the aggregate.

8 INSPECTION FOR APPROVAL

8.1 Prior to the issue of Approval to Operate as an Itinerant Vendor, the Mobile Food Vendor Vehicle must be presented for inspection each year.

8.2 A prior appointment must be made with Council's Environmental Health Officers for any inspections.

8.3 Following a satisfactory Council inspection a written Approval to Operate as an Itinerant Vendor will be issued. The operator is to operate the vehicle in accordance with the conditions of the approval at all times.

9 OPERATIONAL INSPECTIONS

In accordance with the *Food Act 2003 and Food Regulation 2015*, Council's Authorised Officers may inspect vehicles at any time during operation.

10 OPERATION OF A MOBILE FOOD VENDOR VEHICLE

10.1 Noise

Chimes or like devices used to attract attention shall not be used between the hours of 8 pm to 8 am nor shall be used within 90 metres from any hospital, schools during school hours or churches during service times.

The operation of the Mobile Food Vendor Vehicle shall not give rise to offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*.

10.2 Operating Areas

10.2.1

The Mobile Food Vendor Vehicle activity must not be carried out on any classified road as defined by the Road Acts 1993 (i.e freeways, highways, state works etc.).

10.2.2

The Mobile Food Vendor Vehicle or article shall not be operated within 100 metres of a retail food premise open for trade and 100 metres of any licensed premises. The distance relates to the boundary of the allotment(s) upon which the subject premises is located.

10.2.3

Mobile Food Vending can be carried out for a maximum of 30 minutes at any one position (unless continuously serving or requested by an authorised officer to leave the area). After stopping to vend the vending vehicle must drive a minimum of 100 metres before again stopping to vend.

10.2.4

Mobile Food Vendor Vehicles must obey all Road Rules including parking restrictions under the *Roads Act 1993, Road Transport (General) Act 2013 and Local Government Act 1993*.

10.3 Warning Lights

The Road Transport (Vehicle Registration) Regulation 2017 requires street vending vehicles such as ice cream vans and other food vans must display a flashing amber light while stopped for the purpose of serving customers. The light must start flashing within one second of being switched on and flash at a rate not less than 60 times per minute.

RESPONSIBILITIES

This Policy is to be enacted by Environmental Control officers who are authorised under the;

- *Local Government Act 1993, the Local Government (General) Regulation 2005,*
- *Food Act 2003,*
- *Food Regulation 2015,*
- *Australian Food Standards Code,*
- *Protection of the Environment Operations Act 1997.*

APPENDICES

Appendix A – Application for Approval to Sell Food in a Public Place from a Vehicle or Article

DRAFT



**APPLICATION FOR APPROVAL TO SELL FOOD
IN A PUBLIC PLACE FROM A VEHICLE OR ARTICLE**
PURSUANT TO PART F7 OF SECTION 68 OF THE LOCAL GOVERNMENT ACT 1993 AND
ROADS ACT 1993

I/We hereby apply for an approval/renewal to use the vehicle described hereunder for the purposes of selling the following food stuffs for human consumption:

Area of Operation*: _____

Period of Operation: _____

Application Status: New Application/Renewal

* If necessary, please attach map indicating sites or proposed route.

Applicant Name: _____

Residential Address: _____

Postal Address: _____

Phone number: _____

Business Name: _____

Description of Vehicle: _____

Registration Number of Vehicle: _____ NSW

Refrigeration system: Yes/No

Ancillary articles#: _____

The above Vehicle is Owned by: _____

Owner Driver's Licence Number: _____

And Normally Garaged at: _____

Public Liability Certificate attached Yes/No

Ancillary articles include items such as waste containers, lighting, power source and signs which are separate to the vehicle/article

OFFICE USE ONLY Date: _____

Receipt Type 31 General Ledger No.01.07262.5630.556

Initial Application Fee: \$180.00 per annum

PLUS

Annual Approval Fee: \$495.00 per annum OR \$229.00 per month

Amount Paid: _____ Receipt No. _____ Cashier: _____

PO Box 81 DUBBO NSW 2830
 (02) 6801 4000 Fax (02) 6801 4629 Email council@dubbo.nsw.gov.au

In the event of the Approval being granted, I undertake to observe the following conditions:

- 1) This approval relates to operation from a public place only and does not give approval for operation from private land for which separate Development Approval may be required. Operation at approved organised events (eg markets) is a matter for the event organiser.
- 2) Public Liability Insurance with a minimum cover of \$20 million and noting Dubbo Regional Council as an interested party must be current at all times during the approved period.
- 3) The vehicle or article must not operate within 100m of a retail food premise open for trading and 100 metres of any licensed premises. This distance relates to the boundary of allotment(s) upon which the subject premises is located.
- 4) The requirements of the NSW Road Rules, Food Act 2003 and Regulations thereunder, the Local Government Act 1993 and Regulations thereunder shall be strictly observed.
- 5) Mobile vending can be carried out for a maximum of 30 minutes at any one position (unless continuously serving or requested by an authorised officer to leave the area). After stopping to vend, the vending vehicle must drive a minimum of 100 metres before again stopping to vend.
- 6) Chimes or like devices used to attract attention shall not be used between the hours of 8.00 pm and 8.00 am nor shall be used within 90 metres from any hospital, schools during school hours or churches in service.
- 7) The vehicles shall not enter any Public Reserve unless special permission to do so is first obtained, nor shall such vehicles operate within 200m of the entrance to a Reserve so as to cause obstruction to pedestrian or vehicular traffic.
- 8) The proposed activity shall not be carried out on any classified road as defined by the Roads Act (ie freeways, highways, state works, etc).
- 9) Warning signs alerting motorists to the presence of children shall be displayed on the vehicle to the satisfaction of the Director Development and Environment.
- 10) The requirements relating to the operation of food stalls within the Dubbo Regional Council Local Government Area, as set out below:
 - a) Smoking whilst preparing or selling of food is strictly prohibited.
 - b) Every person preparing, or serving food for sale shall avoid any unnecessary contact with such food during preparation or serving and for this purpose shall observe the following requirements:
 - i) A person shall not serve unwrapped sweets or any sticky substances with the fingers, but shall use a scoop or other suitable implement for every such purpose.
 - ii) A person shall not serve unwrapped cheese, smallgoods, cooked meats or sandwich fillings with the fingers, but shall use a fork or other suitable implement for every such purpose.
 - iii) A person shall not apply his fingers to his mouth, eyes, ear, nose or scalp during the performance of such packing or serving.
 - iv) A person shall not use his breath to open any bag or wrapper.
 - v) A person shall not wipe his hands upon his clothing or by any other means than with a clean towel.
 - vi) A person shall not permit any other person to handle with the fingers any food, which he himself is prohibited from handling with the fingers.
 - vii) Persons operating food stalls shall at all times maintain their bodies and clothing in a clean condition.
 - viii) A receptacle containing clean water, soap and clean washable or disposable paper towels shall be provided for use by persons preparing or selling food at such stalls.
 - ix) Sufficient garbage bins with close fitting lids shall be provided for the reception of waste and scraps from within the stall.
 - x) Wastewater shall be disposed of by discharging by flexible pipe to Council's sewer.
 - xi) Articles of food, together with utensils used for storage, preparation and sale of such food shall at all times be protected and maintained free from dust, flies and insects.
- 11) The Council reserves the right to alter, add to or delete any such condition as it considers to be necessary in the public interest.

Signature of Applicant: _____

Print Name: _____ Date: _____

PO Box 81 DUBBO NSW 2830
 ☎ (02) 6801 4000 Fax (02) 6801 4629 Email council@dubbo.nsw.gov.au



DUBBO REGIONAL
COUNCIL

REPORT: Wellington Aerodrome and Recreation Park Operations Update

AUTHOR: Director Culture and Economy
REPORT DATE: 10 November 2020
TRIM REFERENCE: ID20/1458

EXECUTIVE SUMMARY

This report has been provided as an outcome of the November 2020 Dubbo Regional Council Airport Panel meeting and provides a summary of the current operational environment of the Wellington Aerodrome and Recreation Park.

To support long term, strategic management of the facility, Council has been formally recording usage and reviewing lease arrangements in addition to monitoring asset conditions and levels of operational risk. This summary report is informed by aviation industry professionals and includes findings from consultant reports presented to the Airports Panel meeting in September and November 2020.

Understanding the levels of landing usage, lease arrangements and the resulting income and expenditure is important for Council's future considerations regarding the facility's long term future and the priority for investment in coming years.

The aerodrome is used on average between 14 and 17 times monthly for aircraft landings and receives an average monthly income of \$115.42. The recorded data revealed that 84% of the landings are not from tenants based at the landing area, and over the recorded 2.5 year period there were seven non-urgent medical transfer flights. Most recorded landings are predominantly from recreational aircraft or flying schools, often from other locations.

A technical consultant has identified that the surface of Runway 13/31 requires crack sealing, patching and a two coat bitumen reseal at an investment in the vicinity of \$400,000 - \$500,000. A net present value calculation in the year 2020 showed for the next 10 years the Wellington Aerodrome and Recreation Park will produce a loss of \$1.29 million.

The current operations of Wellington Aerodrome and Recreation Park need to be managed through strategic and operational risk mitigation measures in partnership with aviation and non-aviation users to ensure as reasonably practical the safe operation and activation of the facility.

Future decisions regarding the significant investment required to future proof the facility will need to be undertaken by Council in consultation with users and community, in consideration of new commercial and lease opportunities, strategic and operational

alignment with Dubbo City Regional Airport, and Council's capital priorities and budgets.

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 information in the report from the Director Culture and Economy dated 10 November 2020, be noted.**
- 2. That strategic and operational risk mitigation measures be implemented.**
- 3. That a further 12 month review of Wellington Aerodrome and Recreation Park be undertaken with a report to November 2021 Council meeting.**

Natasha Comber
Director Culture and Economy

BACKGROUND

Dubbo Regional Council has been monitoring use Wellington Aerodrome and Recreation Park in recent years. Previously, there was no recording of users or usage which not only increased the risk profile of the facility, but limited the validated information Council had for consideration in regards to community benefit, operational expense and capital investment.

Facility usage information has been utilised to inform an independent report by Airports Plus that also includes income received, expenses incurred, asset conditions and risk mitigation activities related to the operations of Wellington Aerodrome and Recreation Park. The report identified future investment required to maintain operations in its current format. The process also considered Council's level of risk exposure in maintaining a "landing area" that operates unsupervised, is inspected for serviceability weekly and requires significant investment to ageing runway infrastructure to continue safe landing operations in the next 18 months.

Wellington Aerodrome and Recreation Park is currently used for the following purposes:

- Aircraft Operations
- Property/Tenancies – Flight Related
- Property/Tenancies – Non-Flight Related
- Facility Hire - Driver training, Drag Racing Events
- Grazing Licence (Cattle Agistment)

From 2018 to 2020, Dubbo Regional Council has used the Avdata flight recording system to obtain information on the current users of the landing area and to enable the collection of landing fees. The below tables provide details on income and usage associated with Wellington Aerodrome flight operations.

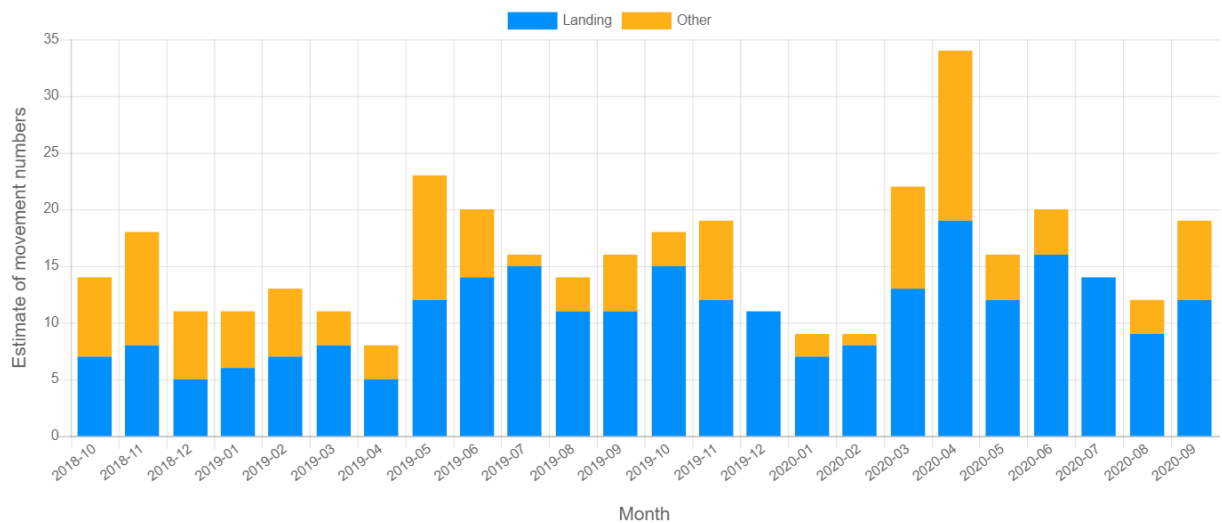
Year	Average Monthly Landings	Average Monthly Income
2020/2021 (to October only)	16.75	\$139.73
2019/2020	17	\$146.77
2018/2019	13.4	\$75.96

For comparison, for aircraft under 650kgs Dubbo City Regional Airport has an average of 81 landings per month.

Monthly income and landing numbers is outlined below:

Number of Landings and Income Wellington Aerodrome						
	2020	Income	2019	Income	2018	Income
July	14	\$98.03	16	\$138.71	1	\$13.19
August	12	\$87.07	14	\$209.36	21	\$168.07
September	19	\$224.75	16	\$110.2	10	\$36.44
October	22	\$149.07	18	\$174.27	14	\$75.69
November			19	\$143.69	18	\$91.93
December			11	\$111.61	11	\$20.12
January			9	\$156.75	11	\$52.37
February			9	\$79.29	13	\$70.09
March			22	\$189.98	11	\$93.77
April			34	\$154.42	8	\$35.59
May			16	\$132.84	23	\$110.97
June			20	\$160.21	20	\$143.33
Total	67	\$558.92	204	\$1,761.33	161	\$911.56

Estimate of movement numbers for Wellington Airport - Bodangora (YWEL)
for the last 2 years



Other – touch and goes or approach only

REPORT

Summary findings from the Wellington Aerodrome and Recreation Park Report by Airports Plus, presented to the Airport Working Panel in September 2020, include:

- The aerodrome is used on average between 14 and 17 times monthly for aircraft landings and receives an average monthly income of \$115.42 derived from associated landing fees (July 2018 - October 2020);
- The facility supports activities for transient users other than Wellington Aerodrome users, especially from flying schools in locations such as Orange, Bankstown and Archerfield;
- Known non-urgent medical transfers are conducted by two contractors to NSW Health who also provide private transport; they are Airmed, who have a facility at Dubbo City Regional Airport, and Little Wings from Bankstown; There were seven non-urgent medical transfer flights over the recorded 2.5 year period;
- The Risk Assessments at the facility after implementing mitigation measures were reduced from EXTREME risks to HIGH and were not able to be minimised further;
- A net present value calculation in the year 2020 that showed Wellington Aerodrome for the next 10 years will produce a loss of \$1.29 million;
- Some lease arrangements and facility closures present increased risks to the facility and some present dangers to events being held when procedures are not adhered to correctly;
- Income received for Property/Tenancies – Flight Related, is far less than income received for Property/Tenancies that are Non-Flight Related; and
- A recent site valuation advised that the current use as an aerodrome facility is considered to be the highest and best use with consideration of the existing zoning constraints.

The recorded data revealed that 84% of the landings are not local users and most landings are predominantly using small, recreational aircraft or flying schools, conducting training flights.

Property/Tenancies – Flight Related

Aviation lease income from the facility remains minimal. There are five hangar site leases, each paying an annual rent of \$110 without any indexation or outgoings applicable, leaving Council liable for rates, electricity and any other fees that might be charged through the use of the site.

Document type	Tenant	Improvements	Rental	Initial term	Options
Licence	Rachcate Pty Ltd	Hangar Site B1	\$110 per annum (GST inclusive)	5 years from 1 February 2017 to 31 January 2022	1 x 5 years (ending 31 January 2027)
Licence	Wellington Aero Club Inc	Hangar Site A5	\$110 per annum (GST inclusive)	5 years from 1 February 2017 to 31 January 2022	1 x 5 years (ending 31 January 2027)
Licence	Mack Watson	Hangar Site A4	\$55 per annum (GST inclusive)	5 years from 1 February 2017 to 31 January 2022	1 x 5 years (ending 31 January 2027)
Licence	Mark Conn	Hangar Site A2	\$110 per annum (GST inclusive)	5 years from 1 February 2017 to 31 January 2022	1 x 5 years (ending 31 January 2027)
Licence	Wellington Aero Club Inc	Hangar Site A1	\$110 per annum (GST inclusive)	5 years from 1 February 2017 to 31 January 2022	1 x 5 years (ending 31 January 2027)

Property/Tenancies – Non Flight Related

There are three tenancies at Wellington Aerodrome and Recreation Park for non-flight related operations.

Fire and Rescue NSW and Flamestop Australia Pty Ltd leases were negotiated prior to amalgamation of the former Dubbo City Council with Wellington Shire Council.

The annual licence fee for Dubbo City Car Club is \$3,250, with an annual indexation increase of 3%. This fee was negotiated based on current commercial rental figures for Wellington and was established in 2019, after the amalgamation.

Document type	Tenant	Improvements	Rental	Initial term	Options
Licence	Dubbo City Car Club Inc	Demountable Building and Drag Strip	\$3250 per annum (GST inclusive)	3 years from 1 August 2019 to 31 July 2022	1 x 3 years (ending 31 July 2025)
Lease	Fire and Rescue NSW	Hangar Site (Shipping Container)	\$111.83 per annum (GST inclusive)	5 years from 1 September 2013 to 31 August 2018	1 x 5 years (ending 31 August 2023)
Lease	Flamestop Australia Pty Ltd	Extinguisher Test Site	\$6,348.70 per annum (GST inclusive)	5 years from 1 May 2012 to 30 April 2017	Nil, currently on month by month basis

Facility Hire - Driver training, Dubbo City Car Club Drag Racing Events

A three year licence has been granted to the Dubbo City Car Club Inc. to use the landing area on 10 individual days per year. Normal fees associated with hiring the runway for these events have been offset with an agreement, whereby the Dubbo City Car Club is also responsible for all grass mowing on the aerodrome, estimated to be worth about \$13,000 per year. The club is no longer charged for hiring the facility, unless they utilise the facility more than the agreed 10 days.

There have been some challenges with the club meeting the maintenance expectations of the lease agreement in regards to execution, timeliness and safety. It was recently identified that the person mowing the landing area was an older volunteer from the Dubbo City Car Club who was found working on his own on an old tractor on a very hot day. Whilst grass maintenance is an agreed accountability of the club, Council maintain a level of responsibility to ensure safe practices are being undertaken and not creating additional risk to individuals or the corporation. Provision has been made in future budgets for Dubbo City Regional Airport to be responsible for the mowing if a satisfactory solution cannot be negotiated with the Car Club, with an appropriate amendment to the licence. Discussions with the Club are ongoing.

An ad hoc licence has also been issued to Murcott's Driving Excellence to conduct defensive driving programs on an as required basis. The fee for use has been \$550 as per the adopted revenue policy.

Grazing Licence

A 12 month grazing licence for a period of one year was granted for an annual fee of \$2,000. Mr Hodges has recently provided formal notification noting he will not be renewing his lease in November 2020. A new agistment licence will be explored to support grass management.

Incidents, accidents and risk

There are a number of hazards associated with operating an aerodrome with approved non-aviation activities. They include:

- The aerodrome is not serviceable for aircraft operations through:
 - No or insufficient maintenance;
 - Equipment left on the runways by other approved users;
 - Damaged Aerodrome lighting.
- Despite closure, aircraft operate when the aerodrome has been made available for other activities;
- Fencing issues allow grazing stock to enter the airside area;
- Wildlife (birds, kangaroos, and so on) enter the airside;
- Trespassers enter the airside through unsecure gates;
- Obstacles in the approach areas.

Historic investigations reveal that the Department of Civil Aviation recommended against the landing area being developed on the Bodangora Common due to the terrain and the possibility of wind shear. There has only been one recorded accident at the facility.

Airports Plus reported that in the last 10 years there have been five reported accidents or incidents at the Wellington Aerodrome and Recreation Park. In recent years, there has been anecdotal reports of aircraft having fuel emergencies and having to land while the landing area has been closed for Dubbo City Car Club events. One such event occurred on 29 October 2018 when a recreational aircraft landed with a declared engine emergency. Interestingly, a vehicle arrived before the emergency was declared to meet the pilot. This incident was reported to NSW Police and to CASA. There have also been reports about equipment (traffic cones) being left on the runway by the Car Club. There was no concrete evidence presented to support this statement.

Facility operations

Much of the time, Wellington Aerodrome and Recreation Park is operated and utilised unsupervised and reporting of any issues or concerns is not reliable. Council trained Aerodrome Reporting Officers currently inspect the aerodrome at least once each week to ensure that it is serviceable and that any required maintenance has been completed.

There was a report of “drag marks” from unauthorised vehicles using runway 13/31 before 14 May 2020. The reported damage was skid-tire marks on the pavement.

The Dubbo City Car Club and Murcott’s Driving School have each supplied a risk assessment as part of their applications to use the landing area and whilst processes and risk assessments have been reviewed to include aircraft operation mitigations, the events still proceed with an understanding they are doing the right thing and implementing the appropriate measures to mitigate risk. A recent assessment of this resulted in updated internal operations procedures to address the restoration of the landing area to aircraft operations.

Facility Income and Expenditure

The Financial Year income and expenses are:

	Revenue	Expenses	Profit/(Loss)
2019/2020	\$11,707	-\$23,239	(\$11,532.00)
2018/2019	\$20,281	-\$22,571	(\$2,290.00)
2017/2018	\$13,646	-\$29,360	(\$15,714.00)
Total	\$45,635	-\$75,169	(\$29,534.00)

The income derived from aviation landing charges was:

- 2018/2019 financial year - \$912; and
- 2019/2020 financial year - \$1761

This estimate is a reasonable annual recurrent expenditure estimate for an aerodrome the size of Wellington Aerodrome. It compares with similar aerodromes in Tasmania (Strahan and Queenstown), Nyngan, Walgett and Lightning Ridge. It is expected that the revenue will not change significantly from the 2020/2021 financial year income and is estimated to be in the order of \$15,000.

Asset condition

An Aircraft Pavement Valuation Report was prepared for Council by APES (Airport Pavement Engineering Specialist) dated 3 April 2020 and rated the pavements in poor condition. This assessment is consistent with Airports Plus Technical Inspectors report in 2019 which noted the condition of the sealed runway pavement as being poor.

A cost of resurfacing the pavement has been estimated based on a figure of \$10 per square metre per coat for bitumen sealing, allowing for a two coat seal, which will equate to \$20 per square metre; and an allowance of \$5 per square metre for pavement repairs resulting from water entering the pavement through the cracks causing pavement deterioration. The estimate is \$670,000.

Council's Infrastructure Division have also provided an estimated assessment to reseal and lime stabilise the surface at approximately \$417,000 (based on the cost of the recent resealing works on the Dubbo Cross Runway 11/29 that was completed in December 2019).

A recent asset revaluation was completed as part of the annual financial statement preparation. The report showed that the remaining useful life of the Bodangora airstrip surface as at 30 June 2020 was approximately 1.5 years, to June 2022.

Property Valuation

A recent site valuation completed by Aspect Property Consultants advised that "The current use as an aerodrome facility is considered to be the highest and best use with consideration of the existing zoning constraints" (Valuation Report, Wellington Aerodrome, Aspect Property Consultants, dated 3 August 2020). Future ownership and usage of the site would need to be considered in context of leases and discussions with impacted parties regarding any potential opportunity for relocation or compensation.

Proposed strategic and operational risk mitigation measures

In response to the report received by Airport Plus, and legal advice received regarding corporate risk, leases and licences, it is proposed that the following strategic and operational risk mitigation measures be undertaken:

- Minimum weekly runway inspections;
- Discussion with Dubbo City Car Club regarding maintenance accountabilities as part of lease;
- Ongoing communications with known facility users regarding protocols and expectations on landing strip availability;
- Review of the Wellington Aerodrome's conditions of use documentation (ERSA- En-route Supplement Australia) to ensure all aviation users are well aware of the ground conditions and usage rules;
- No new leases or licence agreements be entered into in the next 12 months, outside any agreement licence to assist with ground maintenance;
- A further 12 month review, including asset condition, be undertaken with a report to be provided to the Dubbo Regional Council Airports Panel and Council for final consideration.

SUMMARY

As a recommendation of the Dubbo Regional Council Airports Panel, this report has been provided as an overview of the current operations of the Wellington Aerodrome and Recreation Park.

The reporting, data and financial information has been maintained for a number of years and provides a valuable insight into the usage and financial position of the Wellington Aerodrome as a facility of Dubbo Regional Council.

The current operations of Wellington Aerodrome and Recreation Park need to be managed through strategic and operational risk mitigation measures as proposed to ensure as reasonably practical the safe operation and activation of the facility.



DUBBO REGIONAL
COUNCIL

REPORT: DRTCC - COVID-19 Recovery Offer Extension

AUTHOR: Manager Regional Events
REPORT DATE: 18 November 2020
TRIM REFERENCE: ID20/1519

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 a flat 60% discount on 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 aim of the Recovery Offer was to encourage hirers to proceed with their event, entice new hirers to book their event and to 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 has led the way with other regional venues now considering implementing a similar recovery program.

The Recovery Offer is due to expire 31 December 2020. Based on the demonstrated increased activation and current capacity restrictions still at 50%, it is recommended that the Recovery Offer be continued and modified to represent a percentage discount equal to the percentage of capacity permitted. This would ensure the venue hire fee is fair and equitable for both client and venue and reflective of possible changing capacity restrictions post-COVID. Should capacity restrictions lift to allow full capacity within four weeks of the event then full fees and charges would apply.

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 open for business 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.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

1. That the information contained within the report of the Manager Regional Events dated 20 November 2020, be noted.
2. That the COVID-19 Recovery Offer be modified and extended to clients from 31 December 2020 to 31 March 2021, with the ability to extend to 30 September 2021 depending on the relaxing 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 NSW 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.

Kim Hague
Manager Regional Events

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 clients and producers. At the DRTCC the immediate impact of COVID-19 was 13 shows and 37 events were cancelled, 25 shows and two events were postponed.

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%. The Recovery Offer came into effect on 14 July 2020 and soon after the capacity increased to 50% resulting in 12 shows and 19 business and community events proceeding. In addition, 21 internal Dubbo Regional Council event bookings occurred primarily due to larger space to meet the public health order.

The success of the current Recovery Offer has been demonstrated through event and show activity within the facility. Eleven hirers chose to proceed with their booking based on the Recovery Offer and enabling the event or show to be financially viable. In addition, six new hirers have commenced using the facility due to the Program. Feedback from local dance schools is that due to the discounted venue hire they have been able to increase the number of performances from one to two or from two to four over a number of days to ensure families don't miss out on seeing their children perform.

In December 2020, 12 shows 10 business/community events will be proceeding which demonstrates the continual growth and confidences of the users and patrons. To date, the Recovery Offer has resulted in 5,866 people attending the venue from 1 July to 30 November 2020.

Four regional theatres in New South Wales are now considering following Dubbo Regional Council's lead and seeking approval from their Council to implement a similar recovery offer.

REPORT

Industry leaders are uncertain when the public health order will alter to allow increased capacities in venues or at what increments this will occur. It is also noted that the volatile nature of the virus means that capacity may decrease if outbreaks occur in NSW. 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 patrons and events utilising 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 buyer confidence in the entertainment industry. In addition, the recently announced \$100 voucher for each adult in NSW to be used on food and entertainment could be an opportunity for the facilities and hirers to work collaboratively to ensure viability of shows and increase ticket sales.

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.

Whilst the DRTCC and WCC are multi-purpose facilities and are subject to three COVID Safe Plans which have different capacity restrictions, the discount will be applied to the corresponding COVID safe plan that the event is following as deemed by the DRTCC Manager and Safety and Risk Management Team Leader.

Example of recovery offer discount:

COVID-safe capacity is 60% of venue – 40% discount is applied (40% of seats unusable)

COVID-safe capacity is 80% of venue – 20% discount is applied (20% of seats unusable)

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 1 January 2021 and 31 March 2021, depending on COVID-19 conditions at the time. The standard penalty will apply as per the cancellation policy for events that are cancelled or postponed during this period.

SUMMARY

From 1 July to 30 December 2020 DRTCC will have hosted 74 events comprising of shows, business, community events and internal Council events. Much of this successful recovery and activation is due to the COVID-19 Recovery Offer of discounted venue hire.

Extending the Recovery Offer and include the discount to correlate to the capacity allows the facilities to be responsive to changes and increase consumer confidence. In line with operations of the facilities, any discount amendments to the Recovery Offer will be approved by the Director of Culture and Economy.

The proposed COVID-19 Recovery Offer is recommended to be extended from 1 January 2021 to 31 March 2021, with the possibility of extending through to 30 September 2020 depending on Public Health Orders and COVID-19 conditions at the time. Should capacity restrictions lift to allow full capacity within four weeks of any show or event, then full fees and charges will apply.



DUBBO REGIONAL
COUNCIL

REPORT: Wellington Showground - Internal Review 2020

AUTHOR: Manager Regional Events
REPORT DATE: 5 November 2020
TRIM REFERENCE: ID20/1450

EXECUTIVE SUMMARY

At the Ordinary Council meeting on 28 September 2020, a notice of motion was passed to undertake an internal review of the Wellington Showground. This report has reviewed the current use, lease agreements with Wellington Showground and an asset condition report of the facility. The review provides the foundation information with the intention of developing a master plan for the future development and strategic use of the facility.

The buildings of Wellington Showground vary in their condition from new buildings constructed in the last two to three years, through to sheds recommended to be demolished. The funds for the upgrade and construction have been sourced through Council, the Wellington Race Club and funding opportunities.

Wellington Showground is primarily used by the Wellington Race Club to conduct approximately six to eight race meetings per year. The Wellington Race Club is the largest external source of income to the Wellington Showground, however the income is returned to the Wellington Race Club via the grounds maintenance costs. Limited income is received from other external sources.

This report recommends that prior to the development of a master plan for the Wellington showground, there are a number of immediate and short term opportunities to be addressed, such as consideration for an infrastructure improvement list for Wellington Showground, financial audit to ascertain gaps of billing and expense recouping, clearly defining the responsibility of event management, and client liaison.

This report also recommends that Council consider the lease arrangements in place at the facility in conjunction with reviewing the opportunities and consolidation of assets of council and public facilities across the LGA.

FINANCIAL IMPLICATIONS

This review has been undertaken to inform a future decision of Council regarding investment in a Wellington Showground masterplan. There is currently no budget allocation for a masterplan and this will need to be considered as part of the 2021/2022 budget development process.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

- 1. That the information in the report by the Manager Regional Events dated 5 November 2020, be noted.**
- 2. That staff action the items listed in the report regarding current facility operations.**
- 3. That consideration for a Wellington Showground strategic masterplan, be considered as part of the 2021/2022 forward budget.**

Kim Hague
Manager Regional Events

BACKGROUND

At the Ordinary Council meeting on 28 September 2020, it was resolved:

- “1. That the Chief Executive Officer be requested to undertake an internal review of the Wellington Showground, including current use, lease agreement and asset condition report, with the intention of developing a Masterplan for the future development and strategic use of the facility.*
- 2. That the internal review include discussions with key user groups and the current management lessee, Wellington Race Club.*
- 3. That the internal review report be provided to the December 2020 Ordinary Council meeting.*
- 4. That following consideration of the internal review, consideration for a strategic masterplan, including funding avenues, be brought back to the February 2021 Ordinary Council meeting.”*

The Wellington Showground management is subject to legislation under the Wellington Showground Act 1929 and Wellington Showground (Amendment) Act 1960. The act empowers the Trustees of the Showground at the Wellington to purchase additional land, to declare the trusts of the and held or to be held by them, to provide for the appointment of new trustees and to empower the trustees for the time being to mortgage the land so held or purchased.

This report has been developed through consultation with the Regional Events branch, Property Assets branch, and two (2) key users of Wellington Showground being Wellington Race Club and the Wellington Show Society.

REPORT

Introduction and Current Use

Wellington Showground is located on Showground Road on the western side of the town. It is approximately 90 acres. The Wellington Showground comprises of a racecourse, large grandstand, administration and catering building, betting area, four sheds used during the annual show, stables for long term lease to horse trainers and day stables for race meetings.

Wellington Showground is currently used for a number of key events throughout the year. Wellington Race Club conducts between six to ten meetings per year including the Wellington Boot which usually attracts over 4,000 people. Approximately seven horse trainers with 45 horses are based on the site on a regular basis with some casual use throughout the year.

One month’s advice must be given to trainers prior to any events being confirmed to allow for consultation with trainers and the potential effect of the event with horses.

Other regular events include the Wellington Vintage Fair, it is conducted each year in March and the Wellington Annual Show in May. Other irregular users are pony club, circuses, kennel

club, poultry and equestrian club, and some small functions. However, it should be noted that Dubbo Regional Council have not received any bookings from these users in the past three years.



Wellington Showground site

Lease Agreement – Wellington Race Club

At present there is no lease/licence agreement with the Wellington Race Club. The former Wellington Council established a Formal Instrument of Agreement for the 'Cleaning and Maintenance of the Wellington Showground, which was entered into on 29 October 2015 and expired on 30 June 2020. However, the agreement continues on a 'month by month' basis until a renewed agreement or lease has been established.

The arrangement between Wellington Race Club and Dubbo Regional Council is a carry-over from the pre-amalgamation lease of Wellington Council. The lease outlines the responsibilities between the two organisations, as outlined below.

The Wellington Race Club is responsible for:

- Maintenance and repair of sand and grass tracks
- Cleaning of horse stalls and veterinary rooms
- Maintenance and repair of irrigation system (subject to major issues)
- Maintenance and mowing of grounds
- Management of horse trainers
- Responsible for liaising with local event organiser and other users for the use / booking of the showground
- Supply to council copy of public liability

Dubbo Regional Council are responsible for:

- Capital improvements and/or structural repairs to buildings
- Capital and major improvements to the irrigation system
- Providing building insurance (not contents)
- Maintenance and cleaning of public amenities and other buildings
- Set fees and charges for the use of the showground
- Event management

In addition, the agreement notes:

“The club under this agreement, would continue to pay the Council a Race Day fee and an annual track contribution based on Councils fees and charges and then invoice Council back the same amount for maintenance of the grounds.” Hence, the income received by Council for race days are returned through the payment of ground maintenance to the Wellington Race Club.

In the agreement, the former Wellington Council also funded a suitable mower to the value of \$15,000 to the Race Club plus gifted other items for the duration of the Agreement (rotary hoe, roller, harrows, large four wheel trailer, slasher, Fiat tractor with front-end loader). Staff have indicated that this was a suitable arrangement given the future safety and maintenance were likely to be substantial costs incurred by Council.

Preliminarily consultation was made with the two key users being Wellington Race Club and the Wellington Show Society. Overall, the users have no major issues with the current status of the Showground, however, the areas of improvement discussed were:

- Facility upgrades (such as new undercover pavilion for junior judging events or school groups, new race day stables, CCTV cameras)
- Painting in the jockey rooms for WHS reasons
- Clearer process for event application and management
- Key contact in Wellington
- Clear approach for upgrades and maintenance of the facility

Asset Condition Report

A preliminary asset condition report was conducted in October 2020 of the Wellington Showground. The buildings of 'poor' condition include the old toilets, old timber stables, old cattle pavilion and pump shed. A number of buildings are in 'fair' condition including the sheep shed, shearing shed, maintenance shed, arts and crafts pavilion and the race day stables. The most recent refurbishments and new builds such as the Mt Arthur Fire Shed are in very good condition.

Council's Building Services Coordinator has provided a brief asset condition list which includes the condition of the buildings, the date of upgrade and the organisation that paid for the upgrades.

No.	BUILDING/ACTION	Works undertaken in:	Paid for by	Condition
1	Outdoor Stables	2017	Race Club	Good
2	New Stables	2016	Race Club	Very Good
3	Old Toilets			Poor
4	Old Timber Stables			Poor
5	Mt Arthur Fire Shed		Grant funding	Very Good
6	Sheep Shed			Fair
7	Sheep / Machinery Shed	2009	Council	Very Good
8	Old Cattle Pavilion	2017	Council	Fair to poor
9	Shearing Shed			Fair
10	Maintenance Shed			Fair
11	Pump Shed			Poor
12	New Poultry Pavilion	2016	Council	Very Good
13	Old Poultry Pavilion	2018		Good
14	Arts 7 Craft Pavilion			Fair
15	Bar & Canteen	1988		Good
16	Men's & Ladies Toilets	2017	Cobbora funding	Good
17	Grand Stand Toilets	2013	Race Club	Good
18	Betting Ring	1988		Good
19	Grand Stand	2017		Good
20	Stables for race day			Fair
21	Shelter	2014		Good
22	Jockeys/Stewards Room		Council Insurance	Good
23	New Water Lines	2018		Good

Appendix 1, provided for additional information.

There is no funding in the current budget to undertake any significant renewals or capital investment. Council staff continue to work with facility stakeholders to prioritise renewals for consideration for future budget allocations.



The maintenance of the grounds and racetrack by the Wellington Race Club are kept at a high standard including mowing, general gardening and minor maintenance (such as leaking taps). In 2019, the recycled water project commenced to water the Wellington Race Track with recycled water from the sewage plant. This project aims to discontinue the use of potable water being used to water the grass racetrack, especially during drought. This project is currently with Department of Planning, Industry and Environment and NSW Health for approval.

Income and Expenses

Council Fees and Charges are based around the Wellington Race Club, key users and casual camping sites. Regular income from users is approximately \$20,000 per year and is broken down as per the table below. The majority of income is derived from Wellington Race Club however, the income is returned via maintenance costs. Vintage Fair and Wellington Show also pay venue hire fees to use the facilities (\$1,400 and \$3,000 respectively) and both organisations often apply for funding from Council to pay for the fees through the Event Funding channels.

Electricity costs are to be split between Council and the Wellington Race Club; with the Race Club covering 'majority of the buildings' and Council to meet the costs associated with irrigation and other areas of the ground such as sideshow alley. Council are also responsible for cleaning amenities for race days and events.

Income	2017/2018	2018/2019	2019/2020
Income - Wellington Race Club	-\$24,783.39	-\$17,678.15	-\$23,342.76
Income - All Other Income	\$3,850.00	-\$3,185.45	\$0.00
	-\$20,933.39	-\$20,863.60	-\$23,342.76

Expenses			
Expenses - Maintenance	-	\$25,052.37	\$8,072.31
Expenses - Other			
Working Expenses	-	\$31,379.47	-\$1,576.37
Electricity & Insurance Expenses	-	\$21,745.99	\$0.00
Operating Expenses	\$4,345.67	\$6,642.39	\$0.00
Light and Power Expenses	-	-	\$7,453.76
Other Functions	-\$4,000.00		
Grounds Operations	\$27,729.37		
Building Operations	\$30,003.83		
	\$58,078.87	\$84,820.22	\$13,949.70

Council have not received any additional income via the Wellington Race Club or events directly managed by Council in the past 12 to 18 months. Council have also not had new events or users at the Wellington Showground in the past three years with the exception of Arboriculture Australia for camping (Red Bull Branched Out event in 2018).

Current facility operations

Prior to the development of a master plan for Wellington Showground there are a number of immediate and short term operational items that need to be addressed including:

1. Establishment of a lease or licence agreement with Wellington Race Club clearly defining the responsibility of event management including client liaison and income.
2. Council onsite staff requirements and management to undertake income recouping.
3. Review income derived from casual bookings such as overnight camping and stables (difficult to oversee if Council staff not onsite)
4. Review building report to include WHS audit.
5. Consideration for infrastructure improvement list for Wellington Showground (in consultation with key users).
6. Financial audit to ascertain gaps of billing and expense recouping.
7. Consideration for full lease of Wellington Showground to Wellington Race Club (similar to Dubbo Race Club); incentive for lease to recoup income.
8. Review management versus income (that is, which organisation receives the income dependant on which organisation manages the fees and charges item such as overnight stabling or events).
9. Function space opportunity to be marketed, redeveloped or repositioned and how does it compete or complement existing Council or private function rooms/venues.

SUMMARY

The Wellington Showground comprises of a number of buildings and a racetrack that vary in condition from 'poor' to recent constructions of buildings. A number of users have provided feedback for infrastructure improvements required across the facility. The grounds are well maintained by the Wellington Race Club and the recycled water project, once completed will reduce the portable water use at the facility.

The Wellington Showground is primarily used by the Wellington Race Club who operate onsite permanent race training plus six to eight race meetings per year. Wellington Race Club provide the largest revenue source for Council, however the income is returned by the way of maintenance costs to maintain the grounds throughout the year.

Prior to the development of a master plan for the Wellington Showground, this report recommends a number of opportunities and issues to be addressed including the review of the Wellington Race Club lease for clearer delineation of responsibility, financial audit to ascertain gaps in billing and expense recouping and review of opportunities for income generation.

Appendices:

[1](#) Asset Condition Report and 2020/2021 Fees and Charges

Wellington Showground Building Asset Report – Nov 2020

No.	BUILDING/ACTION	Condition	Upgrade Year	Paid for by	COMMENTS
1	Outdoor Stables	Good	2017	Race Club	Race Club upgraded, grant money from Racing NSW, work by race club
2	New Stables	Very Good	2016	Race Club	Race Club upgraded, grant money from Racing NSW \$110,000
3	Old Toilets	Poor			Needs replacing
4	Old Timber Stables	Poor			Need demolishing – don't meet Standard stable size (consideration re Heritage)
5	Mt Arthur Fire Shed	Very Good		Grant	
6	Sheep Shed	Fair			Needs work to roof & painting
7	Sheep / Machinery Shed	Very Good	2009	Council	Replacement
8	Old Cattle Pavilion	Fair to poor	2017	Council	New concrete wash bay 2018; used by horse trainers and show time
9	Shearing Shed	Fair			
10	Maintenance Shed	Fair			Needs a concrete floor; estimate \$10,000
11	Pump Shed	Poor			
12	New Poultry Pavilion	Very Good	2016	Council	Replacement
13	Old Poultry Pavilion	Good	2018		Renovated by Show Society, roof may need replacing in future (consider heritage)
14	Arts 7 Craft Pavilion	Fair			
15	Bar & Canteen	Good	1988		Paint required in next 4 years
16	Men's & Ladies Toilets	Good	2017	Cobbora Fund	Showground Committee
17	Grand Stand Toilets	Good	2013	Race Club	Race Club upgraded, grant money from Racing NSW
18	Betting Ring		1988		Paint required in next 4 years
19	Grand Stand	Good	2017		New concrete step to front (WHS), \$8,701 Council. Back shade area to grandstand constructed 1988 – needs painting in next 4 years
20	Stables for race day	Fair			
21	Shelter	Good	2014		\$15,000 Race Club upgraded ,grant money from Racing NSW
22	Jockeys/ Stewards Room	Good		DRC Insurance	New ceiling back room 2018 , new concrete front veranda 2017 Needs painting and Race club asked about ladies jockeys room extension support
23	New Water Lines	Good	2018		Nearly all old gal water lines have been replaced with blue line
24	Lighting Project		2016		Stage to of lights completed

Wellington Showground Fees and Charges – 2020/2021

Name	Year 19/20 Last YR Fee (incl. GST)	Year 20/21 GST	Year 20/21 Fee (incl. GST)
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WELLINGTON SHOWGROUND

RACE CLUB :

per Race Meeting	\$2,853.00	\$266.11	\$2,927.18
All fees and charges listed in this schedule exclude cleaning costs and waste disposal charges (charges at commercial rates) are in addition to these fees Council to do any clearing after use, regardless of the cost, this will be payable by the hirer.			
Contribution to Track (Per Annum)	\$2,799.00	\$261.09	\$2,872.00

OTHER USERS (PER DAY) :

Pony Club	\$89.00	\$8.36	\$92.00
Circus	\$517.00	\$48.27	\$531.00
Kennel Club	\$89.00	\$8.36	\$92.00
Poultry Club	\$89.00	\$8.36	\$92.00
Equestrian Club	\$89.00	\$8.36	\$92.00

HIRE OF GROUNDS :

per day – Commercial	\$0.00	\$203.00	\$2,233.00
per day – Community (Not for Profit, Show Society, Vintage Fair)	\$0.00	\$160.27	\$1,763.00
Note: Exclusive use of grounds, excluding Turf track, stables, race tower and Wellington Race Club office.			
Exclusive Use of Part of Ground up to half hectare	\$171.00	\$16.00	\$176.00

CASUAL USE OF COUNCIL BUILDINGS :

Grandstand	\$257.00	\$24.00	\$264.00
Any Building Only	\$176.00	\$16.45	\$181.00
Storage (Per Week or Part Thereof)	\$122.00	\$11.45	\$126.00

POWERED SITES :

per night	\$31.00	\$2.91	\$32.00
Use of Facilities - camping grounds at Wellington Showground			
Sites only available during events. Fee to be paid to event organiser			

UNPOWERED SITES :

per night	\$21.00	\$2.00	\$22.00
Use of Facilities - camping grounds at Wellington Showground			
Sites only available during events. Fee to be paid by event organiser.			



REPORT: Stronger Country Communities Fund Round Two Grant Program and Tender Process

AUTHOR: Director Liveability
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1587

EXECUTIVE SUMMARY

During 2018, Dubbo Regional Council was awarded \$1.3 million as a part of Stronger Country Communities Round 2 competitive grant program (SCCF2-0380), enabling the upgrade of amenity facilities at three sporting grounds, Kennard Park, South Dubbo Oval and Apex Oval.

FINANCIAL IMPLICATIONS

There are significant financial implications pertaining to the Stronger Country Communities Round 2 fund. The NSW Government has awarded \$1.3 million. Further, Council has allocated in excess of \$505,500 towards the initiatives, as listed:

Oval Amenity	SCCF 2 (NSW)	Council	Other Contributor	Total Funds
Kennard Park	\$450,000	\$127,439		577,439
South Dubbo	\$350,000	\$363,630		713,630
Apex Oval (Juniors)	\$500,000	\$4,497	60,000	564,497
				\$1,855,566

As a result of having to decline the existing tender and go back out to the market place there may also be an increase in the cost of the project.

POLICY IMPLICATIONS

Management of the grant program and rollout of the capital improvements at sporting facilities is in keeping with the Dubbo Regional Council *Community Strategic Plan 2040*, Community Leadership theme, specifically 4.1 "Our community is active and engaged" and liveability aspirations, 5.2 "the health of the community is maintained and enhanced", 5.3 "the lifestyle and social needs of the community are supported"; and 5.5 "the community has the opportunity to participate in a diverse range of lifestyle, sporting and passive recreational pursuits".

RECOMMENDATIONS

- 1. That the report of the Director Liveability dated 1 December 2020 be noted.**
- 2. That Council, in accordance with clause 178(1)(b) of the Local Government (General) Regulation 2005 decline to accept any of the tenders.**
- 3. That Council, in accordance with clause 178(3)(b) of the Local Government (General) Regulation 2005 invite new tender submissions with suitable amendments.**

Skye Price

Director Liveability

BACKGROUND

During 2018, Dubbo Regional Council was awarded \$1.3 million as a part of Stronger Country Communities Fund Round 2 competitive grant program (SCCF2-0380), enabling the upgrade of amenity facilities at three sporting grounds, Kennard Park, South Dubbo Oval and Apex Oval.

The projects were bundled as a single tender, along with a fully funded amenity refurbishment at Jubilee Oval, to achieve an economy of scale. The tender (T20-014) was publicly advertised in accordance with Local Government Act provisions, closing 2 June 2020. Eleven (11) submissions were received and a rigorous tender assessment process followed, resulting in a recommendation to engage a contractor. This recommendation was endorsed 24 July 2020.

After ongoing liaison with sports stakeholder groups, Council sought a deed of variation, pertaining to the project scope at the South Dubbo Oval site, enabling refurbishment and expansion of the current amenities building, as well as compliance with Australian Standards, related to AS 1428.1 Mobility and Access. The deed of variation was formally requested 7 August 2020.

Council staff regularly contacted NSW Government representatives seeking provision of the deed, thereafter. A notification was sent to all tenders advising them of a delay in the engagement of a Contractor with a revised date of 15 September 2020.

However, the requested variation documentation was delayed until 3 November 2020. An acknowledgement and response was sent from Council 5 November, requesting corrections to the document, including the grant round denoted; and removal of a milestone requirement which does not pertain to the amenities construction project. Council staff attempted to expedite the deed of variation document, from departmental officials, to no avail. A modified deed of variation was eventually received by Council on 1 December 2020.

Given the substantial time that has past, Council is no longer able to commit to the original tender provisions. Further, Council is not able to commit to construction of amenities, in time for the 2021 winter sport season, as was originally intended. Further, Council is no longer able to proceed with the current tender.

REPORT

In terms of good governance and sound procurement, and in accordance with clause 178(1)(b) of the Local Government (General) Regulation 2005 decline to accept any of the tenders.

As such, given the request for variation and the duration of time that has passed, Council is respectfully requested to endorse the recommendation that all T20-14 tender submissions be declined. Further, Council is requested to endorse the recommendation that Council re-advertise the request to tender, with suitable amendments.

It is anticipated that the tender will be advertised commencing in early to mid-January 2021 and closing late January/early February 2021. The original identified timeframe for completion of all four projects was 14 – 16 weeks and this will mean disruption to the sporting codes during the works.

A new tender timeline will result in disruption to a number of winter sports fixtures and sports stakeholders. Those impacts will need to be proactively managed by Council staff.

SUMMARY

Resulting from delays in Council receiving a Deed of Variation for South Dubbo Amenities project, it is necessary for Council to decline all tenders, under clause 178(1)(b) of the Local Government (General) Regulation 2005 decline to accept any of the tenders.

Council will re-advertise the tender. It is intended that the new tender documentation will be re-issued for advertisement during January 2021.



DUBBO REGIONAL
COUNCIL

REPORT: Street Tree Advisory Panel - Call for Expressions of Interest

AUTHOR: Director Liveability
REPORT DATE: 1 December 2020
TRIM REFERENCE: ID20/1583

EXECUTIVE SUMMARY

At the December 2017 Ordinary Council Meeting, the following was put to Council:

1. *That Council form a Committee to review proposed removal and/or replacement of trees required to complete infrastructure projects comprising the Mayor, interested Councillors, the General Manager, the Director Community and Recreation or his nominee, the Director Infrastructure and Operations or his nominee, the Director Planning and Environment or her nominee, and four (4) community representatives.*
2. *That after a publicly advertised process the community representative membership of the Dubbo Regional Council Street Tree Committee be considered at the February 2018 Ordinary Meeting of Council.*

Following the implementation of the Street Tree Advisory Committee (which later became the Street Tree Advisory Panel), four Community Representatives were adopted by Council at the February 2018 Ordinary Council Meeting.

At the November 2020 Street Tree Advisory Panel meeting, one Community Representative indicated their departure from the panel, leaving a vacant positions.

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 Council write to the departing Panel member to thank them for their contributions.**
- 2. That Council call for expressions of interest for the Street Treed Advisory Panel for one Community Representative.**

Skye Price

Director Liveability

REPORT

The Street Tree Advisory Committee was formed at the beginning of 2018 and became the Street Tree Advisory Panel in 2020. It serves as a resource and information support group to Council as required and provides advice and recommendations on matters relating to the removal and/or replacement of trees.

After a call for public nominations, four Community Representatives were adopted by Council in February 2020 and have served on the Panel since, alongside the Mayor, interested Councillors, the CEO, the Director Liveability, the Director Development and Environment and the Director Infrastructure.

At the November 2020 Street Tree Advisory Panel meeting, one Community Representative indicated their desire to step down from the panel.

Currently the panel comprises of:

- The Mayor – Councillor Ben Shields
- Councillor John Ryan
- The Chief Executive Officer
- The Director Liveability
- The Director Development and Environment
- The Director Infrastructure
- Community Representative - Vacant
- Community Representative
- Community Representative
- Community Representative

The panel is now seeking expressions of interest for new community representation to fill the vacancy.



REPORT: Jaira Road Playspace - Draft Plan

AUTHOR: Open Space Coordinator
REPORT DATE: 28 October 2020
TRIM REFERENCE: ID20/1405

EXECUTIVE SUMMARY

A draft Jaira Oval Concept Master Plan has been developed by Moir Landscape Architecture, following a commitment identified within the recently adopted Playground Shade Improvement Program. Installation of a new playspace within Delroy Parklands/Grangewood Estate area was identified, to cater for population growth in this area, and help balance the current inequity between West and East Dubbo recreational opportunities.

The draft plan attached as **Appendix 1**, currently identifies a proposed inclusive nature based playground area incorporating; accessible paths, park furniture, natural and built (shade cloth) shaded areas, with a range of play elements and softfall materials.

It is proposed the draft plan be put on public exhibition for 28 days, to capture community feedback on the proposed playspace and its location. A subsequent report will be provided to Council, following conclusion of the public exhibition period, in order to progress the playground construction.

FINANCIAL IMPLICATIONS

A total of \$280,000.00 was allocated for development of a Jaira Oval Playground Draft Plan and subsequent installation of playspace. This project has been funded under the Playground and Facility Improvement Plan, which is funded through the reallocation of funds from Section 94 Public Open Space Contributions Plan (1998).

POLICY IMPLICATIONS

Incorporation of a playspace within Jaira Oval, is consistent with Dubbo Regional Council's Community Strategic Plan, Community Leadership theme 4.3, "the resources of Council are appropriately managed;" Liveability themes, 5.1.3, "the City of Dubbo is recognised as being attractive and welcoming;" 5.5.2, "quality passive... open space is located to maximise access and use by the community."

RECOMMENDATION

- 1. That the report of the Open Space Coordinator, dated 7 December 2020, be noted.**
- 2. That the draft Joira Oval Playspace – Draft Plan, be placed on public exhibition for 28 days, enabling community feedback and input.**
- 3. That following the public exhibition period, a further report be submitted to Council for consideration.**

Ben Pilon
Open Space Coordinator

BACKGROUND

Following the endorsement of Council’s Playground Shade Improvement Program 2019, a \$1.1 million dollar injection into a number of key upgrades to facilities and shade elements within both existing and newly identified playgrounds is being implemented. Part of this program included the provision of a new playground within Joira Oval in West Dubbo.

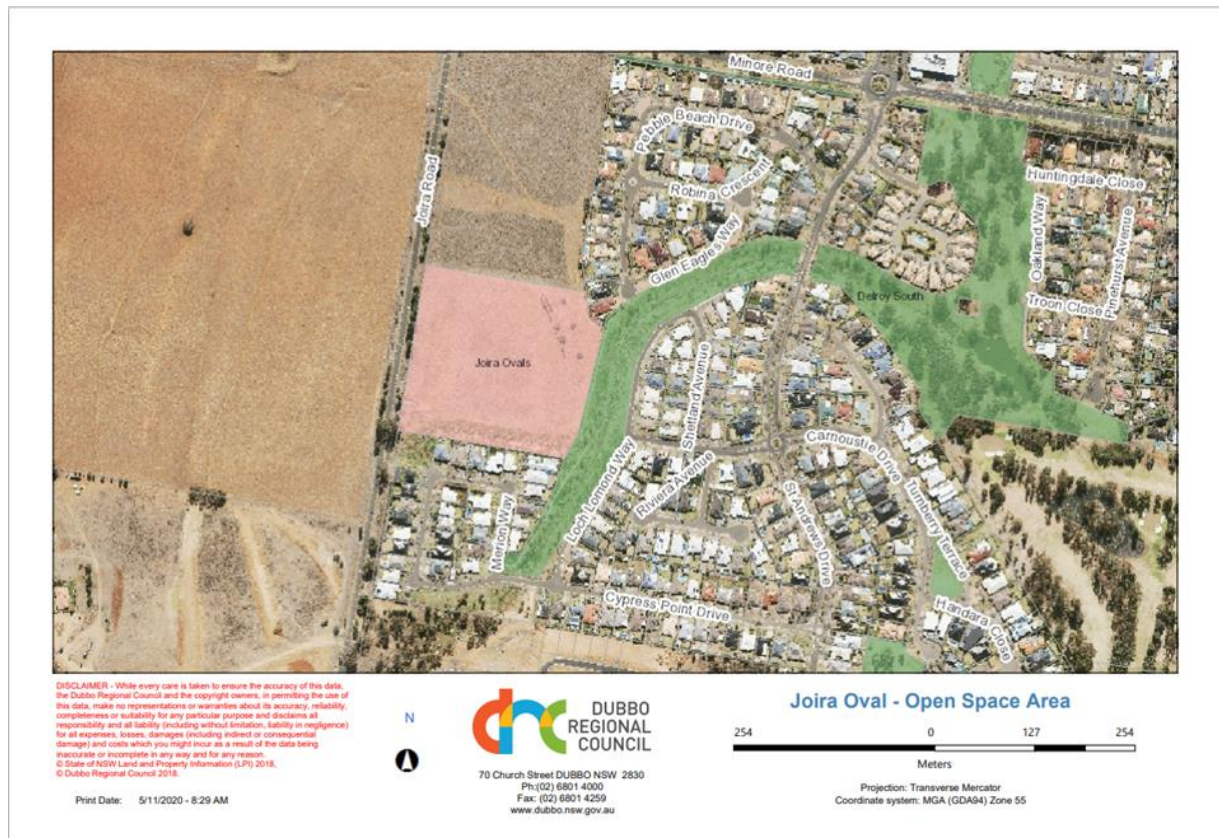


Figure 1. Location of Joira Ovals

Currently, Joira Oval is a 4.69 hectare undeveloped open grassland area, managed by Recreation and Open Space and is maintained by Liveability Operations, in accordance with a Local Medium Open Space asset under the current Maintenance Service Levels.

The undeveloped grassland area, as outlined within the Dubbo Open Space Masterplan 2018, is identified within a high growth area situated within the South Western sector of Dubbo, and is classified as a prioritised “future supply” asset. To meet the demand of the population growth of Dubbo, especially within this area, further provision for recreational facilities and increasing of service levels will positively attribute to fulfilling the plan.



Figure 3. Open Space Acquisition 2008-2018

The proposed Joira Oval Playground Draft Plan, has been developed with the objective of placing it on public exhibition and inviting the community to make comment and provide feedback on the playground and “future works” area.

REPORT

The Joira Oval Playground Draft Plan, has been developed by Moir Landscape Architecture, following a commitment identified within the Playground Shade Improvement Plan, to initiate discussions within the community in regards to the installation of a playground at Joira Oval.

It is intended that if the playground feedback is positively received within the community, tender documentation will be developed to initiate the playground, with further community consultation to occur through a community vote on a preferred playground design.

Playground

The Playground Draft Plan has a strong focus on Nature Play and creates a key connection to Delroy Parklands and the existing pedestrian access path system. It will be accessible from the car parking area at the end of Pebble Beach Drive/Glen Eagles Way. The plan also allows future embellishment to complement the space.

The play space is intended to include an extension of plantings adjacent to and within the swale drains with endemic species; play elements and softfall materials that have a strong focus on nature; structured elements, such as swings and slides. The playground has been designed to cater for all ages and abilities. In addition, the space will be complemented with accessible paths, natural and structured shaded seating areas, along with open irrigated turf areas, creating an inclusive space.

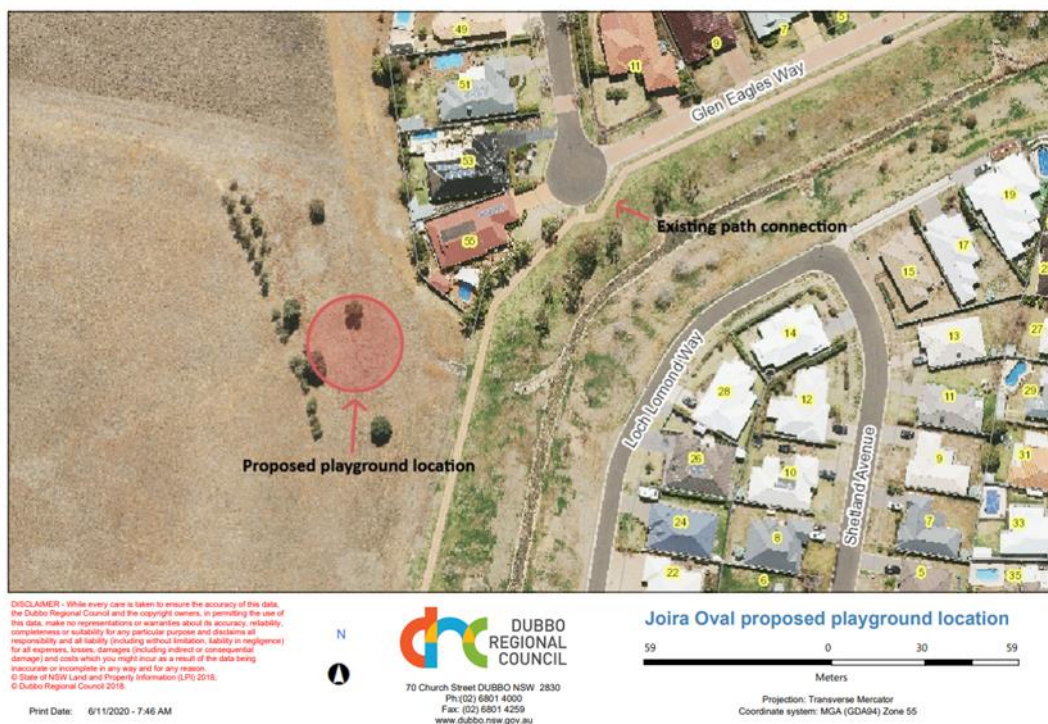


Figure 3. Proposed playground location – Joira Oval

Joirra Oval - Playground



Dubbo Regional Council - Joirra Oval 7

Figure 4. Joirra Oval – Playground concept plan

Artistic Representation
View from existing footpath



Dubbo Regional Council - Jaira Oval 8

Figure 5. Artist Representation from existing pedestrian path in Delroy Parklands

Appendices:

- 1 [↓](#) Jaira Oval - Playground Costings
- 2 [↓](#) Jaira Oval Draft Plan - Playground

JOIRA OVAL - SCHEDULE OF QUANTITIES

EXTENDED TOTAL FROM THE SCHEDULE OF RATES					\$277,955.00
Project Number					1846
Client					Dubbo Regional Council
NOTE: Any item that is GST free, please provide details					
ITEM	DESCRIPTION	EST QTY	UNIT	RATE (GST incl.)	EXTENDED AMOUNT (GST incl.)
1	EARTHWORKS				
1.1	Trim & Compact Paved Areas	505	m2	\$2.00	\$1,010.00
Section Total					\$1,010.00
2	FOOTPATH				
2.1	100 thick concrete footpath including reinforcement, joints and 75 thick FCR bedding	505	m2	\$120.00	\$60,600.00
Section Total					\$60,600.00
3	PLAYGROUND				
3.1	Imported washed sand sofffall (nominated 300mm thick) on & including geofabric seperation liner	490	m2	\$20.00	\$9,800.00
3.2	300 thick organic mulch	200	m3	\$118.00	\$23,600.00
3.3	2000 x 500 x 500 sandstone seating edge to perimeter of sand pit on & including 25 thick mortar bedding & 150 thick FCR	20	Item	\$500.00	\$10,000.00
3.4	Allowance for 500 minus boulders to garden areas	10	Item	\$50.00	\$500.00
3.5	Allowance for stepping stones on & including 50 thick FCR base	10	Item	\$95.00	\$950.00
3.6	Toddler Play	1	Item	\$15,000.00	\$15,000.00
3.7	Nature Play	1	item	\$45,000.00	\$45,000.00
3.8	Swings	1	Item	\$9,000.00	\$9,000.00
3.9	Allowance for 8m x 15m shade sail to Toddler Play	1	Item	\$20,000.00	\$20,000.00
Section Total					\$133,850.00
4	SHELTER/FURNITURE				
4.2	Allowance for picnic table & bench	1	Item	\$2,500.00	\$2,500.00
4.3	Allowance for bench	3	Item	\$1,500.00	\$4,500.00
Section Total					\$7,000.00
5	SITWORK & LANDSCAPING				
5.1	Cultivated subgrade	450	m2	\$0.75	\$337.50
5.2	400 thick imported garden soil to garden beds	450	m2	\$100.00	\$45,000.00
5.3	Supply & place 75 thick mulch to last	450	m3	\$115.00	\$337.50
5.4	4Str Pot Tree	20	Item	\$250.00	\$2,175.00
5.5	Supply & plant tubestock for basin area (4/m2)	500	m2	\$4.35	\$2,175.00
5.6	Supply & plant 140mm plant (4/m2)	600	m2	\$13.45	\$8,070.00
5.7	Supply & lay turf	2400	m2	\$7.25	\$17,400.00
Section Total					\$75,495.00
Project Total (Including GST)					\$277,955.00



Dubbo Regional Council | Joira Oval

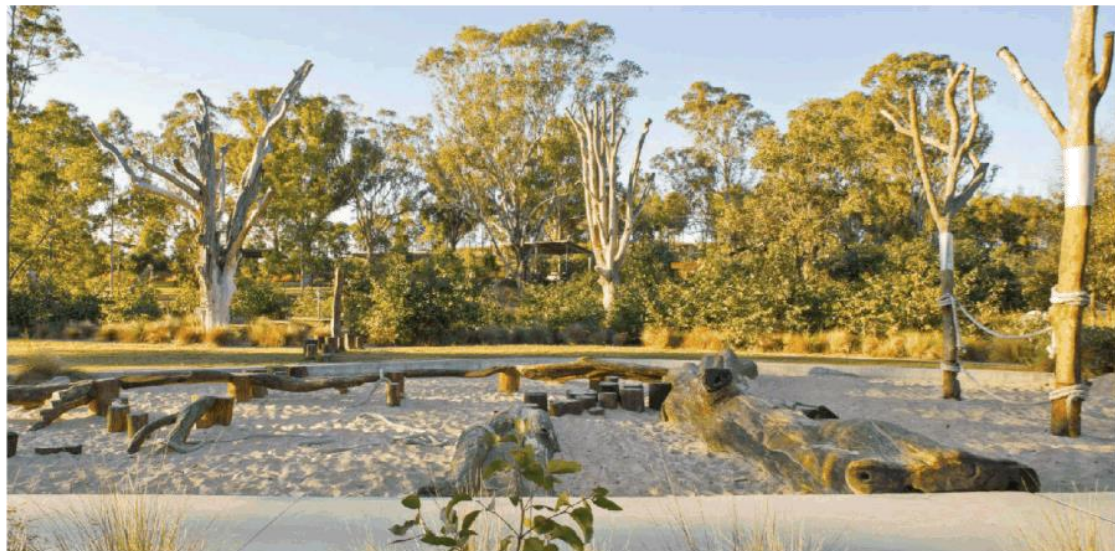
Moir Landscape Architecture

REV C 14.05.20

Nature Play

Nature play elements consist of elements, textures and objects direct from nature. This may be in the form of wooden logs, tree stumps, boulders, drainage paths, intermingled with traditional manufactured play elements.

Nature play promotes interaction with the natural environment, and is said to increase essential skills such as balance, problem solving, reduction in stress and aggression and improves self-confidence and risk mitigation.





Shelter

Simple shade structures will provide instant shade to the playspace, before the vegetation matures and casts ample shade. Shade structures offer a great meeting point, rest area or viewing location that increases passive surveillance and provides much needed amenity to the local community.



Trails

Simple, navigable, nature trails are a great way to reduce the number of hard surfaces needed in a play space. They are cost effective and develop a sense of adventure and intrigue amongst children. Nature trails are also a great way to promote biodiversity and filter storm water runoff.



Joira Oval - Playground



Legend

- 1. Planted Swale
- 2. Stepping Stones
- 3. Mulch Play Area
- 4. Toddler Play Area / Shade Sail
- 5. Sandstone Logs
- 6. Sand Play Area
- 7. Nature Play Adventure Space
(log balance beams, climbing boulders, log steppers).
- 8. Structures Play elements. (slide, climbing frame, swing set).
- 9. Concrete Footpath
- 10. Shaded Bench Seating
- 11. Mass Planting
- 12. Shaded Picnic Table
- 13. Open Turf Area

Artistic Representation

View from existing footpath







DUBBO REGIONAL
COUNCIL

REPORT: South Dubbo Tavern Extended Trading Authorisation application

AUTHOR: Manager Community Services
REPORT DATE: 19 November 2020
TRIM REFERENCE: ID20/1521

EXECUTIVE SUMMARY

Dubbo Regional Council has received an application from the South Dubbo Tavern for a new Extended Trading Authorisation. This application is for an increase in trading hours until 2.00am from Monday to Saturday and until midnight on Sunday. There will be no change in take away sales hours. The South Dubbo Tavern is located in a residential area at 328 Fitzroy Street (corner Fitzroy Street and Boundary Road).

FINANCIAL IMPLICATIONS

There are no financial implications that will affect the 2020/2021 budget.

POLICY IMPLICATIONS

This Report is consistent with the 2040 Dubbo Region Community Strategic Plan, Liveability:- Strategic Outcome 5.3 The lifestyle and social needs of the community are supported. Strategy 5.3.1 The social services requirements of our community are met.

RECOMMENDATION

- 1. That the information contained within the report of the Manager Community Services dated 19 November 2020 be noted.**
- 2. That Council make a submission to object to the Independent Liquor and Gaming Authority in relation to the application for a new Extended Trading Authorisation by the South Dubbo Tavern.**

John Watts
Manager Community Services

REPORT

Dubbo Regional Council has received an application from the South Dubbo Tavern for a new Extended Trading Authorisation. This application is for an increase in trading hours until 2.00am from Monday to Saturday and until midnight on Sunday. There will be no change in take away sales hours. The South Dubbo Tavern is located in a residential area at 328 Fitzroy Street (corner Fitzroy Street and Boundary Road).

The current operating hours of the South Dubbo Tavern are:

- Monday-Saturday 5.00am-midnight
- Sunday 10.00am-10.00pm.

The proposed changes to trading hours are:

- Monday-Saturday 10.00am-2.00am
- Sunday 10.00am-midnight.

Take away sales are Monday-Saturday 5.00am-10.00pm and Sunday 10.00am-10.00pm.

There have also been additional conditions imposed on this application by the Independent Liquor and Gaming Authority. These generally relate to the provision of the application to residents and Schools, patrons arriving and leaving, noise levels and the 1.00am lockout rule. A copy of these conditions is also attached to this Report.

The South Dubbo Tavern is located in a residential area with the South Dubbo Campus of the Senior College and the South Dubbo Primary School located nearby. There is also a neighbourhood shopping centre located immediately out the front on Boundary Road.

There are 75 licensed venues in Dubbo which includes 13 hotels. The outlet saturation density in Dubbo is 192.6 which is lower compared to NSW (198.0) and lower compared to Inner Regional Australia NSW (243.2) averages. Between November 2018 and November 2020, Outlet Saturation in Dubbo increased (179.7 to 192.6). Outlet saturation density refers to the concentration of licensed premises in a local area. It is a known environmental risk that can lead to excessive drinking and alcohol-related harm. Outlet density can be assessed by measuring outlet saturation (number of licensed premises in an area as a proportion of a population) and outlet clustering (proximity of licensed premises in a local area to one another). It should be noted that there are no other licensed premises located closely to the South Dubbo Tavern. The closest licensed premises to the South Dubbo Tavern are The Macquarie Club at 313 Macquarie Street and Ashcroft IGA Bottle Shop at 95 Tamworth Street.

In the year to June 2020, the rate of alcohol-related domestic assault in Dubbo was 275.5. This was higher compared to the Dubbo Regional LGA rate of 259.2. It was higher compared to the rate for Inner Regional Australia (NSW) (167.5), and higher compared to the rate for all NSW (113.2). For the same period, the alcohol-related non-domestic assault rate

In Dubbo (207.8) was higher compared to Dubbo Regional LGA (186), higher compared to Inner Regional Australia (NSW) (139.7), and higher compared to all of NSW (97.1). In the year to June 2020, the malicious damage to property rate in Dubbo (2000.9) was higher compared to Dubbo Regional LGA (1897.1), higher compared to Inner Regional Australia (NSW) (951.4), and higher compared to all of NSW (681.9). These rates indicate the number of incidents per 100,000 residents. These figures show that crimes relating to alcohol consumption are generally higher in Dubbo than in the Dubbo Regional LGA and higher than in Inner Regional NSW.

Appendices:

- 1 [↓](#) South Dubbo Tavern Liquor Licence Application - Conditions
- 2 [↓](#) Local Consent Authority Notice South Dubbo Tavern



Independent Liquor & Gaming Authority

A statutory board established under the Gaming and Liquor Administration Act 2007

contact.us@liquorandgaming.nsw.gov.au
www.liquorandgaming.nsw.gov.au

Key liquor licence details recorded as at 16 November 2020

Licence number: LIQH400112130
Licence name: South Dubbo Tavern
Licence type: Liquor - hotel licence
Licence sub-type: Full hotel
Licence status: Current
Duration: Unlimited duration
Licence start date: 28/07/1967
Licence expiry date:

Licensee

Title: Mr
Surname: Green
Given name: Lee
Middle name: Thomas
Website:
Phone - daytime: 02 6882 2300
Mobile: 0404099557
Email address: lee@southdubbotavern.com.au
Start date: 12/12/2013
Fax number: 02 6884 2279

Premises

Address: 328 Fitzroy St DUBBO NSW 2830
Phone number: 02 6882 2300
Email address: lee@southdubbotavern.com.au
Website: www.southdubbotavern.com.au
LGA: Dubbo Regional Council
ABS SLA: Dubbo - South
Start date: 28/07/1967
Fax number: 02 6884 2279

Authorisations

Name: Minors area authorisation
Start date: 01/07/2008

Trading Hours

Licence number: LIQH400112130

Date Printed: 16/11/2020

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Independent Liquor & Gaming Authority

Condition type: Condition **Condition source:** Authority
Reference: 270
Condition: No party to these proceedings to make known to any other person not being a party, the names or addresses of any other party in the proceedings; in particular, no patron of the hotel to be informed either directly or indirectly of the identity or location of any complainant.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 280
Condition: The residents are to notify the licensee or his employees directly of any further complaints and the licensee is to respond thereto in a sympathetic and effective manner. Should any complaint not be resolved to the satisfaction of the complainant, he or she should notify the local Licensing Police.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 290
Condition: Any taxis called to the hotel shall pick up departing patrons in the bottle shop driveway.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 300
Condition: The LA10 noise level emitted from the licensed premises is not to exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.
The LA10 noise level emitted from the licensed premises is not to exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.
Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 310
Condition: Prior to the provision of any live bands or amplified music or entertainment, the licensee will, to the satisfaction of Steven Cooper Acoustics Pty Limited, carry out and implement the recommendations of the said acoustical engineers in written report dated 31 July 1996 and such further recommendations that Mr Cooper may make.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 320
Condition: Entertainment is to be confined to solos, duos, small cover bands and country and western music - no large rock bands and the like are to provide entertainment.
All doors and windows of the entertainment area are to be closed when entertainment is to be provided.
The standard noise emission control condition imposed by the Liquor Administration Board will apply to the premises with the added stipulation - 'that the sontec noise level monitor is to be set on linear not dB(A) with a maximum level of 105 dB at 5 metres from the PA systems'.
Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority
Reference: 350

Independent Liquor & Gaming Authority

Condition: That on any evening when live music or amplified entertainment is provided, the licensee will ensure that no less than one, and depending on the nature of the entertainment two, uniformed security persons is or are to be engaged to patrol the hotel and the area in the vicinity of the hotel including Boundary Road, Fitzroy and Jubilee Streets to ensure that patrons of the hotel do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood. Such patrols to commence at 9:00 pm and to continue until after the last patrons have left the hotel and vicinity.

Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority

Reference: 360

Condition: The licensee is to provide on nights when entertainment is provided a courtesy bus from 8:30 pm to when the last patron has been dispersed for the purpose of conveying patrons away from the premises.

Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority

Reference: 370

Condition: All loading of any band or entertainment equipment is to take place in the hotel carpark.

Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority

Reference: 380

Condition: The maximum number of persons permitted on the premises at any one time is two hundred and forty seven (247).

Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority

Reference: 390

Condition: No patrons are to be admitted to the licensed premises after 01:00 am.

Start date: 01/07/2008

Condition type: Condition **Condition source:** Authority

Applies to: Minors area authorisation

Reference: 500

Condition: Whole of the licensed premises excluding the Games Room.

Start date: 01/07/2008

Business owner

Organisation name: LOG DUBBO PTY LIMITED

ABN:

ACN: 166 717 675

Phone - daytime:

Fax number:

Email address: lee@southdubbotavern.com.au

Website: www.southdubbotavern.com.au

Business address: 739 Hume Hwy BASS HILL NSW 2197

Postal address:

Start date: 12/12/2013

Licence number: LIQH400112130

Date Printed: 16/11/2020

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Independent Liquor & Gaming Authority

Premises owner

Organisation name: LOG DUBBO PTY LIMITED
ABN: **ACN:** 166 717 675
Phone - daytime: **Fax number:**
Email address: lee@southdubbotavern.com.au
Website: www.southdubbotavern.com.au
Business address: 739 Hume Hwy BASS HILL NSW 2197
Postal address:
Start date: 12/12/2013

Gaming machine details

LGA classification: Country
Band: 2
Gaming machine threshold: 25
Gaming machine entitlements: 25
Poker machine permits: 0
Maximum gaming machine authorisations allowed: 25

There are no current quotas for this licence

Gaming machine shutdown hours

Day	Start Time	End Time
Monday	04:00 AM	- 10:00 AM
Tuesday	04:00 AM	- 10:00 AM
Wednesday	04:00 AM	- 10:00 AM
Thursday	04:00 AM	- 10:00 AM
Friday	04:00 AM	- 10:00 AM
Saturday	04:00 AM	- 10:00 AM
Sunday	04:00 AM	- 10:00 AM
Public holiday	04:00 AM	- 10:00 AM

This licence is subject to a risk-based fee, payable annually. If the fee is not paid on time, the licence will be suspended or cancelled. Visit <https://www.onegov.nsw.gov.au/licencecheck> to find out the status of the licence.

Licence number: LIQH400112130

Date Printed: 16/11/2020

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AM0020H

Local consent authority notice

Application to extend trading



Liquor & Gaming NSW

Application type

Extended trading authorisation

When lodging this application with Liquor & Gaming NSW, the applicant must immediately before or within two working days lodge a copy of this notice with:

- ▲ the local council or other consent authority
- ▲ if the premises are within 500 metres of another local government area, the local council or other consent authority for that area
- ▲ the Crown Lands division of the NSW Government, if the premises are on Crown land.

Complete **all** details below – then copy this notice and lodge the copy with each applicable organisation listed above.

Note: This original notice must be lodged with the application. It will be posted on an electronic noticeboard available at liquorandgaming.nsw.gov.au while the application is pending.

Application details

Licensee's name

Lee Green

Licence No

LIQH400112130

Date of application

10/11/2020

has applied to Liquor & Gaming NSW for an extended trading authorisation for a hotel licence.

Liquor licence name

South Dubbo Tavern

Address of licensed premises

328 Fitzroy Street, DUBBO NSW 2830

NSW standard trading hours

Consumption on premises		Take Away Sales (if applicable)	
Monday to Saturday	5:00am to 12:00pm	Monday to Saturday	5:00am to 10:00pm*
Sunday	10:00am to 10:00pm	Sunday	10:00am to 10:00pm

*Certain venues which qualify for an exemption under section 117 of the Regulation are able to sell take away liquor until 11:00pm

The licensee is seeking to change the trading hours as follows:

Consumption on premises	Current trading hours	Proposed trading hours	Take Away Sales	Current trading hours	Proposed trading hours
Monday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Monday	No change	No change
Tuesday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Tuesday	No change	No change
Wednesday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Wednesday	No change	No change
Thursday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Thursday	No change	No change
Friday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Friday	No change	No change
Saturday	05:00 am to 12:00 midnight	10:00 am to 02:00 am	Saturday	No change	No change
Sunday	10:00 am to 10:00 pm	10:00 am to 12:00 midnight	Sunday	No change	No change

continue overleaf

LQ4088 130320


Local consent authority notice AM0020H Extended trading authorisation: hotel licence

6-hour closure period

If the licence was granted on or after 30 October 2008 or a new extended trading hours authorisation is granted after that date the premises is subject to a 6-hour closure period. The standard 6-hour closure period is 4am – 10am but this may be varied by the Authority. Liquor cannot be sold or supplied during this this closure period.

Proposed 6-hour closure period
04:00 am to 10:00 am

Will entertainment be provided on the licensed premises during the extended trading hours? Yes No
If Yes, what type of entertainment will be provided?

Signature of licensee


Date

Submissions about this application can be made to Liquor & Gaming NSW within 30 days. Check the electronic noticeboard for the closing date for this application Lodge submissions via the noticeboard.

COUNCIL OR OTHER CONSENT AUTHORITY USE ONLY

AM0020H

I, (insert name, position and organisation)

Certify that this notice was received on

Liquor licence no.

LIQ

I advise, check one

- development consent is not required to permit the proposed activity development consent is required but not in place development consent is required and in place

DA no.

Please submit this notice through the Liquor & Gaming NSW Application Noticeboard at liquorandgaming.nsw.gov.au. Please include the applicants liquor licence number in the subject line.

To submit this notice manually email liquor.applications@liquorandgaming.nsw.gov.au. Please include the applicants liquor licence number in the subject line, or post to Liquor & Gaming GPO Box 7060, Sydney NSW 2001.

LIQUOR & GAMING NSW USE ONLY

Application number

Lodged date

Submissions close