

**WARRUMBUNGLE SHIRE COUNCIL**

**MINUTES OF THE ORDINARY MEETING OF THE WARRUMBUNGLE SHIRE COUNCIL HELD  
AT THE COUNCIL CHAMBERS, COONABARABRAN ON THURSDAY, 19 SEPTEMBER 2013  
COMMENCING AT 10.08AM** **PAGE 1**

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**PRESENT:** Cr Peter Shinton (Chairman), Cr Andrews, Cr Capel, Cr Clancy, Cr Coe, Cr Schmidt, Cr C Sullivan, Cr R Sullivan, Cr Todd, General Manager (Steve Loane), Director Corporate Services (Rebecca Ryan), Director Technical Services (Kevin Tighe), Temporary Manager Communications & Community Services (Chris White) and Manager Regulatory Services (Michael Marks).

**In attendance:** Manager Administration & Customer Service (S Morris) (minutes)

The Mayor thanked the members of the gallery for attendance.

**10.09am**

**Forum**

Bob Harper addressed the meeting regarding the Coonabarabran Men's Shed and license agreement of premises. Third year of licence agreement at council's works depot. Member numbers have increased. Would like to see a long term lease of premises and seeking consideration of that proposal along similar lines as previous years. Enquired about possibility of expanding the area to include shed near Castlereagh Street to store excess equipment.

**10.14am**

**Apologies – Nil**

**Declaration of Pecuniary and Non-Pecuniary Interest**

Director Corporate Services, Rebecca Ryan, declared Disclosures of Interest being a Pecuniary Interest in Item 40 Application to open up particular roads to B double Trucks and a Non-pecuniary interest in Item 28 External Audit Tender.

**10.14am**

**REPORTS**

**Item 1 Minutes of Ordinary Council Meeting – 15 August 2013**

**87/1314 RESOLVED** that the resolutions contained in the Minutes of the Ordinary Council meeting held on 15 August 2013 be endorsed.

**Todd/Coe**  
**The motion was carried**

**Item 2 Minutes of Traffic Advisory Committee Meeting held on 29 August 2013**

**88/1314 RESOLVED**

1. That the minutes of the meeting held on Thursday, 25 July 2013 be confirmed.
2. That due to RMS being unable to set speed limits on gravel roads investigations be undertaken to install appropriate warning signs on Hawkins Road.
3. That request by Salvation Army to conduct the R2R Educational Bike Ride on 24-28 October 2013 be referred to RMS for information and approval.

**Capel/Andrews**  
**The motion was carried**

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**Item 3 Minutes Bushfire Appeal Advisory Panel – 13 August 2013  
89/1314 RESOLVED**

1. That the minutes of the Warrumbungle Shire Mayors Bushfire Appeal Advisory Panel Meeting held on 8 July 2013 be accepted.
2. That reports provided by the ADRA, Barnardos, BlazeAid and St Vincent de Paul be accepted.
3. That Barnardos store the wash baskets at their Coonabarabran office and the four (4) partner agencies work together to distribute to those affected by the bushfire.

**Schmidt/Coe  
The motion was carried**

**Item 4 Minutes of Robertson Oval Advisory Committee Meeting - 21 August 2013  
90/1314 RESOLVED**

1. That a registered surveyor be engaged to accurately identify the boundaries of the Robertson Oval complex.
2. That consultation be undertaken with ARTC regarding encroachment of Robertson Oval complex onto railway land.
3. That any future upgrades or new amenities building in the Robertson Oval complex be undertaken on the site of the existing building, including the potential for an elevated viewing area above the existing building

**C Sullivan/Coe  
The motion was carried**

**Item 5 Minutes of Plant Advisory Committee Meeting held on 4 September 2013  
91/1314 RESOLVED**

1. That minutes of the Plant Committee meeting held on 1 May 2013 be accepted.
2. That Council does not proceed with the replacement of Plant Item No 82 due to the low residual value **FURTHER** that Plant Item No 82 is placed into the 2015-2016 Plant Replacement Program.
3. That Council purchase one (1) Volvo L110F Wheel Loader from CJD Equipment Pty Ltd that complies with the tender specifications at a price of \$315,000.00 (ex GST) and that Council trade in Plant Item No 96 to CJD Equipment Pty Ltd for \$132,000.00 resulting in a changeover price of \$183,000.00 being \$27,000.00 under budget.
4. That Council purchase one (1) MacDonald Johnston VS651 Road Sweeper fitted with the optional suction hose from MacDonald Johnston that complies with the tender specifications at a price of \$305,076.37 (ex GST) and that Council auction Plant Item No 186 through Pickles Tamworth with an auction estimate of \$63,636.36 resulting in a changeover price of \$241,440.01 being \$61,440.01 over budget.

**R Sullivan/Schmidt  
The motion was carried**

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**10.19am**

**Presentation:** Mr Warwick Giblin regarding Cobbora Coal

Voluntary Planning Agreement will only take effect if construction commences. What represents commencement is questionable. No guarantee project will be built. The construction phase contributions are not really acceptable as \$400k shared equally between four (4) Local Government areas. Operational phase contributions seem acceptable. Important that Council secures agreement before government makes an approval. Agreement is modelled on large urban development.

VPA includes Infrastructure upgrade offer for funds towards Dunedoo Sewerage Treatment Plan and Water Treatment Plant

Cobbora Transition Fund – \$20m – projects expected to be submitted through tender process for funding.

**11.23am**

**92/1314 RESOLVED** that standing orders be suspended to break for morning tea.

**R Sullivan/Schmidt  
The motion was carried**

**11.45 am**

**93/1314 RESOLVED** that standing orders be resumed.

**Schmidt/Capel  
The motion was carried**

**Item 6 Cobbora Holdings Corporation – Voluntary Planning Agreement**

**A motion was moved by Councillor Coe seconded by Councillor Capel** that in consideration of Warrumbungle Shire Council (WSC) receiving an insufficient amount of funds, Council rejects the VPA. The use of worker domicile concept and the allocation of contributions during the construction phase do not accurately reflect the cost shifting being imposed on the residents and ratepayers of Warrumbungle Shire Council.

**FURTHERMORE**, WSC is the host council of this project which imposes significant triple bottom line costs. **FURTHER** Council seeks an urgent meeting with Member for Barwon (Kevin Humphries MP) to expedite this matter and **FURTHER** that Council authorise the Mayor and General Manager to continue to negotiate strongly for significant consideration from the transition fund.

**The motion was withdrawn**

**94/1314 RESOLVED** that:

As the Council primarily responsible for the geographic area in which the proposed Cobbora Coal Project is to be located, Warrumbungle Shire Council unanimously rejects the VPA as tabled by the Proponent, Cobbora Holding Company, on the following grounds:

1. In general terms the VPA offer, as per the annual financial contributions and infrastructure upgrades, does not adequately offset the environmental, social and economic costs likely to be imposed by the Project on the residents and ratepayers of Warrumbungle Shire, in particular the community of Dunedoo and its environs;
2. Specifically, the worker domicile mechanism proposed to allocate annual financial contributions does not adequately reflect the costs likely to be imposed on Warrumbungle Shire Council and its community; and

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3. Specifically, the allocation of only 25% of the construction phase annual contributions to Warrumbungle Shire Council does not adequately reflect the costs likely to be imposed on Council and its community.

Council seeks an urgent meeting with the Local Member (Member for Barwon, Kevin Humphries MP) to outline its concerns and expectations on this matter and will be seeking his support for representations to the Minister for Planning & Infrastructure and the Treasurer (to whom Cobbora Holding Company reports) to redress the inadequacies.

**FURTHER** the Council also seeks a meeting with Cobbora Holding Company to amend the VPA document to address inadequacies and **FURTHER** that Council authorise the Mayor and General Manager to continue to negotiate strongly for significant consideration from the transition fund.

**Coe/Capel**  
**The motion was carried**

**Item 7 Federal Member of Parkes Mr Mark Coulton**

**95/1314 RESOLVED** that Council congratulate Mr Coulton on his successful re election to the Federal seat of Parkes. Council looks forward to working with Mr Coulton in securing outcomes for the Warrumbungle Shire.

**Coe/Todd**  
**The motion was carried**

**Item 8 Local Supplier Preference**

**Local Supplier Preference**

Motion withdrawn

**96/1314 RESOLVED** that Council publicise the current policy on local supplier preference.

**R Sullivan/Coe**  
**The motion was carried**

**Item 9 Responses to Questions from last meeting**

Received.

**Item 10 Brick Bats and Bouquets**

Received.

**Item 11 Australia Day 2014**

**97/1314 RESOLVED** that Council participates in the Australia Day Program in 2014 hosting two (2) Ambassadors from the Australia Day Council **FURTHERMORE**;

1. Council administers and presents the following awards for Australia Day 2014;
  - Warrumbungle Shire Council Citizen of the Year
  - Young Citizen of the Year
  - Senior Citizen of the Year
  - Sportsperson of the Year and
  - Young Sportsperson of the Year Award
2. Council provides a contribution to each local organising Australia Day Committee in Baradine, Binnaway, Dunedoo, Coolah and Mendooran an amount of \$500 and Coonabarabran \$600. In addition the host community of the Warrumbungle Shire Council Citizen of the Year will receive an additional \$100 towards the function catering.
3. Council pools be opened free of charge throughout the Shire on Australia Day 2014 as in past years.

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4. Council endorse the Australia Day guidelines and criteria along with the nomination form.

**Clancy/Capel  
The motion was carried**

**Item 12 Delegations of Authority to the General Manager**

**98/1314 RESOLVED** that Council endorse the following Delegations of Authority to the General Manager

**DELEGATIONS OF AUTHORITY TO THE  
GENERAL MANAGER  
SECTION 377, 379 & 381 LOCAL GOVERNMENT ACT 1993**

**FUNCTIONS OF THE GENERAL MANAGER**

In pursuance of Section 335 of the Local Government Act, 1993, the General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council. The General Manager shall have the following particular functions:

- (i) the day to day management of the Council;
- (ii) to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- (iii) to appoint staff in accordance with the organisation structure and resources approved by the Council provided the General Manager may appoint or dismiss Senior Staff only after consultation with the Council;
- (iv) to direct and dismiss staff; and
- (v) to implement the Council's equal employment opportunity management plan.

**DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER**

In pursuance of Section 377, 379 & 381 of the Local Government, 1993, the Warrumbungle Shire Council hereby delegates to the **GENERAL MANAGER**, the exercise of the powers, functions, duties and authorities contained in the Local Government Act, 1993 and the various other Acts listed in Schedule 1.

**This instrument of delegation shall commence on the 2 May 2011 and remain in force until otherwise amended or revoked in writing.**

Generally the following are delegated as well as schedules 1 and 2 hereto attached.

**GENERALLY**

***Administration***

To carry out the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with the resolutions of the Council.

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To authorise the payment of the salaries and wages of the employees of Council within the sums voted by Council for expenditure thereon.

To exercise and implement the powers, authorities, duties and functions of the Council under the Local Government Act and any other Act of Parliament or any rule, regulation, ordinance or bylaw under or pursuant to any such Act, subject to compliance with Section 377 and Council's adopted policies.

To exercise and implement any resolution or policy of the Council subject to Section 377.

To control all correspondence of Council with all official mail to be addressed to the General Manager and for all outgoing mail, Section 603 Certificates of Local Government Act and Section 149 Certificates of Environment and Planning Act to be signed by himself or other persons authorised by him in any emergent circumstances.

To determine the matters which are to be included in the business papers of Council in line with Council's policies and general practice and, in particular, matters to be referred to Closed Meeting in line with Council's policy in relation to confidentiality and the provisions of the Local Government Act, 1993, (Section 10). These would generally include:

- i reports on matters which cannot be determined under delegated authority;
- ii reports required to be submitted under any Act or Regulation.
- iii matters requiring a determination of Policy;
- iv reports directed by the Council to be submitted;
- v matters essential for the Council's information;
- vi matters requested by the Mayor;

To authorise the purpose and travel arrangements of Council's representatives and staff outside Council's area on Council business and the reimbursement of the associated expenses including the attendance of the General Manager and Directors to attend one only annual conference or their professional organisation each year ie the Local Government Managers Association, the Institute of Professional Engineers Association, the Health and Building Surveyors Association.

To authorise the purchase of stationery, seek quotes for office equipment, and acceptance of quotes for amounts covered within the budget.

To authorise the issue of letters of reference by the General Manager.

### **Accounts - Payment**

Authority to pay all accounts as they fall due.

### **Cheques/Orders for Goods - Signing**

To sign and or to specify the servants authorised to sign cheques and orders for goods of Council.

### **Complaints and Requests**

Instruct staff to take any necessary action in connection with any complaints or requests received, subject to all major matters being reported to Council.

### **Correspondence**

To reply to routine correspondence not involving a monetary vote by Council, not effecting Council policy and not requiring the consideration of Council. Further a reply is not necessary where the item is actioned and completed within 21 days of receipt.

### **Staff Matters**

Exercise the powers of the Council in relation to:



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- a The day to day management of Council employees.
- b The conduct of staff education and staff attendance at training courses and computer user group.
- c Engage and dismiss casual staff as and when required within the provisions made in the approved estimates.
- d Deal with all industrial disputes involving the Council and its staff, subject to any formal dispute being referred to Council.
- e Within the funds voted by Council to approve overtime being worked by staff in all departments or divisions of Council when considered necessary subject to any directions or policy of Council from time to time.
- f Authority to approve staff leave.

### **Responsible Accounting Officer**

To be or designate an appropriate employee of Council as the responsible accounting officer in accordance with Part 4 of the Local Government (Financial Management) Regulation 1993.

### **Advances - Cash**

To fix and vary the level of cash advances.

## **SCHEDULE 1**

### **LOCAL GOVERNMENT ACT, 1993**

#### **(a) Chapter 6 - Services Function**

##### **(i) PART 2 - PUBLIC LAND**

Section 54 - Issue of Land Classification Certificates.

#### **(b) Chapter 7 - Regulatory Function**

##### **(i) PART 1 - APPROVALS**

Section 68 - Approval of activities specified in the table (Section 68 Local Government Act), except in so far as the Local Government Act, 1993, the regulations or a local policy adopted by the Council allows the activity to be carried out without approval.

Section 82 - To modify provisions of Clauses 54 and 55 of the (Approvals) Regulations.

Section 94 - Determination of Applications by granting approval, either conditionally or subject to conditions, or by refusing approval.

Section 95 - Exercising Council's power for deferred commencement of approvals.

Section 96 - Exercising Council's power to grant Staged Approval.

Section 97 - Exercising Council's power to apply Conditions concerning security.

Section 98 - Exercising Council's power to impose Other Conditions.

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Section 99 - Giving of notice to applicants of determination of Applications.

Section 100 - Review of Determination where made by a delegation of Council.

Section 106 - Exercising Council's power to amend an approval, in accordance with the procedures outlined in Section 106.

Section 107 - Exercise Council's power to extend or review an approval.

Section 108/109 - Exercise Council's power to revoke or modify an approval in any of the following circumstances:-

- (a) if the approval was obtained by fraud, misrepresentation or concealment of facts;
- (b) for any cause arising after the granting of the approval which, had it arisen before the approval was granted, would have caused the Council not to have granted the approval (or not have granted it in the same terms);
- (c) for any future failure to comply with a requirement made by or under the Local Government Act, 1993 relating to the subject of the approval; and
- (d) for any failure to comply with a condition of the approval.

**(c) Chapter 7 - Regulatory Function**

**(i) PART 2 - ORDERS**

Section 124 - Order a person to do or refrain from doing a thing specified in Column 1 Table No.2 (Chapter 7 - Orders) if the circumstances specified opposite in Column 2 of the Table exists and the person comes within the description opposite it in Column 3 of the Table.

Section 125 - Order a person responsible for a public nuisance to abate such nuisance.

Section 132 - Give notices of an Order under Section 121.

**(d) Chapter 8 - Ancillary Functions**

**(i) PART 1 - ACQUISITION OF LAND**

Section 186/187 - Negotiate on Council's behalf for the acquisition of land for the purpose of exercising any of the functions, up to the stage of presenting offers to Council for determination.

**(ii) PART 2 - ENTRY ON TO LAND AND OTHER POWERS**

Section 191/ 192 - Authorise Council employees (or other persons) to enter any premises for the purpose of enabling the Council to exercise its functions.

Section 194 - Authorise the use of force for the purposes of entering premises.



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Section 201 - Make application to an authorised Justice for the issue of a Search Warrant.

**(e) Chapter 11 – How Are Councils Staffed**

**(i) PART 3 – PUBLIC OFFICER**

Section 342 - Designate a member of staff as a Public Officer.

Section 353 - Prohibit staff from engaging in private employment or contract work outside Council.

**(f) Chapter 12 - Operation of Councils**

**(i) PART 3 - SALE OF COUNCIL PROPERTY - PLANT AND EQUIPMENT**

To dispose of Council plant and equipment by way of sale at the best offer received when:

(1) the sale of such item of plant and equipment is approved in the current year's annual operating plan and budget or approved by the Asset Management Committee; or

(2) the item of plant, equipment or material is obsolete, unserviceable and/or surplus to Council's requirements and the sale of such item of plant or equipment represents the most cost effective option.

**(ii) PART 4 - INSURANCE**

Section 382 - Make arrangements for adequate insurance against public liability and professional liability.

**(g) Chapter 15 - Council Finances**

**(i) PART 3 - ORDINARY RATES**

Section 525 – Application for change of category

Section 548A - Determine applications for aggregation of land values by Council and to adjust and re-levy accordingly.

**(ii) PART 5 - LEVYING OF RATES AND CHARGES**

Section 552 - Determination of what land may be subject to a water supply special rate or charge.

Section 553 - Determination of time at which land becomes subject to special rate or charge.

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**(iii) PART 6 - RATEABLE LAND**

Section 555 - Determination of what land is exempt from all rates.

Section 556 - Determination of what land is exempt from all rates, other than water supply special rates and sewerage special rates.

**(iv) PART 7 - PAYMENT OF RATES AND CHARGES**

Section 564 - Approval of agreements as to periodical payment of rates and charges.

Section 569 - Issue and serve notices on occupiers for liability for payment of unpaid rates and charges.

**(v) LOCAL GOVERNMENT GENERAL REGULATION (2005)**

Clause 131 - To write off Rates and Charges in accordance with the regulation under this clause.

- To write off Rates and Charges up to \$10,000 in accordance with this clause (errors, at law or cost effectiveness).
- To write off debts to Council up to \$500.00 in accordance with this clause.

**(vi) PART 13 - INVESTMENTS**

Section 625 - Arrange the investment of money that is not, for the time being, required by the Council for any other purpose.

Money may only be invested in the following:-

- (a) in any security authorised by the Trustee Act; or
- (b) in a form of investment notified by order of the Minister published in the Government Gazette.

**(vii) LOCAL GOVERNMENT GENERAL REGULATION, 2000**

Clause 144 - To apply water restrictions under the terms of this clause.

**OTHER ACTS**

The General Manager is further delegated to act specifically in terms of the following Acts and Regulations:

**RURAL FIRES ACT 1997**

Section 66 Issue Notices requiring owners or occupiers (not being a public authority) of land to carry out bush fire hazard reduction work.

Section 67 Resolve objections to Section 66 Notices.

Section 70 Enter on land and carry out bush fire hazard reduction work.

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Division 2A Investigate bush fire hazard complaints.  
Sections 100D,  
100E, 100F, 100G Issue bush fire hazard Certificates.  
Section 100H Remedy and restraint for breaches under Sections 100F and 100G by bringing proceedings in the Land & Environment Court.  
Section 131 To serve penalty notices on a person.

### **COMPANION ANIMALS ACT, 1998**

To authorise staff to carry out and undertake all Council's functions and take legal actions under the Companion Animals Act, 1998 and Regulations.

### **FOOD ACT, 2003 AND FOOD REGULATIONS 2004**

Powers and authorities as the appropriate enforcement agency under the Food Act 2003 and Food Regulations 2004.

### **IMPOUNDING ACT 1993**

To appoint designated Impounding Officers and carry out all Council's functions and take legal actions under the Impounding Act 1993.

### **PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997**

Section 91 Issue Clean Up Notices.  
Section 92 Undertake clean up and recover costs in relation to reasonable costs and expenses.  
Section 94 Recover costs.  
Section 96 Issue Prevention Notices.  
Section 98 Take action where a person does not comply with Prevention Notice.  
Section 187 Appoint authorised officers  
Section 224 Serve a Penalty Notice  
Section 264 Issue Noise Control Notices

### **PROTECTION OF THE ENVIRONMENT OPERATIONS (CLEAN AIR) REGULATION 2002**

Issue and revoke approvals for the Control of Burning under part 2A, subject to:

- Such conditions as may be specified
  - Consideration of the matters as listed under Section 6G
  - No approvals for burning vegetative matter being issued in village zones, industrial or rural residential zones except in exceptional circumstances as determined in consultation with the Department of Environment & Conservation, NSW Rural Fire Service or NSW Fire Brigade
  - No approvals for burning of vegetative matter being issued during periods in which a permit is required to be issued by the NSW Rural Fire Service or other authority unless a permit is issued
  - No approvals being issued for burning during periods of Total Fire Bans.
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### **PUBLIC HEALTH ACT 1991**

Section 10 Exercise Functions  
Section 10F Power to Enter and Inspect Premises of a Supplier of Water  
Section 10I Closure of Water Supply  
Section 47 Power of Authorised Officer under Part 4 – Microbial Control  
Section 51 Power of Authorised Officer under Part 5 – Skin Penetration  
Section 70 Inspection of Records  
Section 72 Power of Entry

### **PUBLIC HEALTH (DISPOSAL OF BODIES) REGULATIONS 2002**

Section 28 Supervision of Exhumations  
Section 49 Power to Enter and Inspections

### **PUBLIC HEALTH (SKIN PENETRATION) REGULATIONS 2000**

Section 4 Powers to Enter and Inspection

### **PUBLIC HEALTH (SWIMMING POOLS & SPAS) REGULATIONS 2000**

Section 6 Powers of Entry and Inspection  
Section 7 Powers to Close Swimming Pool or Spa

### **PUBLIC HEALTH REGULATIONS**

Section 39 Supervision of Exhumations  
Section 57 Power of Entry and Inspection

### **SWIMMING POOL ACT 2012**

Section 27 Power to Appoint Inspector  
Section 28 Power of Entry and Inspection  
Section 24 Issue Compliance Certificates  
Section 34 Serve Notices  
Section 35 Issue Penalty Notices

### **ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

- i) The authority to determine development applications lodged for consent under Part 4 of the Environmental Planning & Assessment Act, 1979 which:
- a. comply with the provisions of any Environmental Planning Instrument;
  - b. are consistent with relevant Development Control Plans, Codes or Policies adopted by the Council;
  - c. may be considered under Part 4 Division 2 (Existing Use) of the Environmental Planning & Assessment Act, 1979;
  - d. are the subject of public submissions to which the objection relates;  
[Section 90]
    - i. solely to the type of development proposed;

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- ii. to a design standard contained within an adopted Development Control Plan, Code or Policy;
- iii. to an issue that may be reasonably alleviated by the imposition of a condition of development consent.

- ii) The authority to, on behalf of the Director-General, prepare Section 65 Certificates and Section 69 Reports to the Minister to approve such amendments.

(N.B. Council must still apply to the Director to complete the relevant documents under Sections 65 and 69 of the Act).

- iii) The authority to impose conditions on a development consent granted under Part 4 of the Environmental Planning & Assessment Act, 1979, which are:

- (a) for a purpose identified in Section 80 and 80A of the Environmental Planning and Assessment Act 1979;
- (b) in accordance with the terms of any environmental planning instrument;
- (c) in accordance with any development control plan, code or policy adopted by the Council;
- (d) requirements specified by any public authority or public undertaking.

- iv) The authority to refuse a development application which:

- (a) is prohibited under the provisions of any environmental planning instrument;
- (b) does not comply with the statutory provisions of the Environmental Planning & Assessment Act, 1979;
- (c) does not contain adequate information to enable assessment under the relevant heads of consideration listed in Section 76(C) of the Environmental Planning & Assessment Act, 1979.

- v) The authority to determine any request for reconsideration or variation of a condition of development consent under Section 96 of the Environmental Planning & Assessment Act, 1979.

- vi) The authority to approve an extension of any development consent in accordance with the provisions of Section 95 of the Environmental Planning & Assessment Act, 1979.

- vii) The function of the Council in relation to Part 5 of the Environmental Planning & Assessment Act, 1979 for an activity which is not of a prescribed kind or an activity that is not likely to significantly affect the environment.

- viii) The authority to reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or it is not easily legible.

- ix) The function of the Council under Section 118B of the Environmental Planning and Assessment Act 1979 to authorise a person to carry out inspections for the purposes of that Act, the regulations under that Act and any environmental planning instrument under that Act.

- x) The function of the Council under Section 123 of the Environmental Planning and Assessment Act 1979 to bring proceedings to remedy or restrain a breach of that Act.

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xi) Authority to forward a Draft Local Environmental Plan under Section 68 of the Environmental Planning & Assessment Act, 1979 to the Department of Planning where no public submissions are received as a result of the public exhibition required under Section 66 of the Act.

xii) Authority to vary any numeric standard contained within any Council code, policy or development control plan by up to 10% provided the development still meets the objectives of the particular code, policy or development control plan.

xiii) The authority to require the lodgement of a cash bond or bank guarantee for work outstanding in any partly completed development with the amount of the bond being sufficient to complete the approved work allowing for inflation and administration costs or as provided for in Council's policy.

xiv) The authority to act on Council's behalf in relation to legal proceedings lodged with the Land & Environment Court as follows:

(a) To determine the nature of action to be taken to defend the appeal and thereafter institute any action deemed necessary in the circumstances.

(b) To negotiate on matters in issue during conferences between parties when presided over by an assessor appointed by the Land & Environment Court and to delegate such authority to the Director - Works and/or the Director – Environmental & Community Services, where appropriate.

xv) The function of the Council under Section 149, 149A, 149C and 149D.

xvi) The authority to issue Certificates under Part 4A including Construction, Occupation, Compliance and Subdivision Certificates.

xvii) Part 6 - Division 1A Power of Entry onto Land and Other Powers.

xviii) Issue Notice of Intent under Section 21H for an Order under Section 121B.

ixx) Issue Orders under Section 121B.

### **ENVIRONMENTAL PLANNING & ASSESSMENT REGULATIONS 2000**

Issue Fire Safety Orders, Notices, Schedules, Certificates and Offences under Part 9 – Fire Safety and Matters Concerning the Building Code of Australia.

### **INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, 1988**

To exercise the statutory role of the Principal Officer in accordance with Section 11 of the Independent Commission against Corruption Act, 1988, as and when considered appropriate.

### **PRIVACY AND PERSONAL INFORMATION PROTECTION ACT, 1998**

To implement Council's functions under the Act.

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## **WARRUMBUNGLE SHIRE COUNCIL**

**MINUTES OF THE ORDINARY MEETING OF THE WARRUMBUNGLE SHIRE COUNCIL HELD  
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### **ROADS ACT, 1993**

To authorise the North West Weight of Loads Group to proceed or not proceed with prosecution for breaches of regulations made under Section 108(2) of the Roads Act, 1993.

The function under section 71 of the Roads Act to decide to carry out work on any public road in respect of which the Council is the roads authority under the Act and on any other land under its control.

The function under section 78 of the Roads Act to decide to construct bridges and tunnels across navigable waters.

The function under section 86 of the Roads Act to direct the owner of a private road to carry out work on the road or to decide that the Council is to carry out the work.

The function under section 87(2) of the Roads Act to decide to carry out traffic control work on a classified road with the consent of the Roads and Traffic Authority (RTA).

The function under section 87(3) of the Roads Act to decide to carry out traffic control work on any unclassified road, and on any public street that is not a public road, except where otherwise notified by the RTA.

The function under section 92(1) of the Roads Act to decide to alter the landform of land adjoining a public road to ensure the stability of the road.

The function under section 93 of the Roads Act to direct the owner of any land adjoining a public road to fill in any excavation that, in the Council's opinion, threatens the stability of the road.

The function under section 94 of the Roads Act to carry out drainage work in or on any land in the vicinity of a public road.

The function under section 95 of the Roads Act to direct the occupier of land from which matter has been washed or blown onto a public road to take action to remove the obstruction and prevent its recurrence.

The function under section 96 of the Roads Act to direct the occupier of any land in the vicinity of a public road to alter a fence, provide floodgates in any such fence or repair any such fence or floodgates.

The function under section 97 of the Roads Act to direct any person who is entitled to place utility services in on or over a public road to locate new or replacement services in a conduit and to make payments in respect of the costs incurred by the Council in constructing the conduit.

The function under section 98 of the Roads Act to direct the person having control over any work or structure that is situated in on or over a public road to alter the work or structure or its location.

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The function under section 99 of the Roads Act to direct a private body established under the legislation referred to in the section to repair or maintain any water supply or drainage work situated in on or over a public road and that is controlled by that body.

The function under section 100(1)(b) of the Roads Act to direct the owner of a private railway which is passed over under or across by a public road to repair or replace the bridge or level crossing or the road under an overbridge.

The function under section 101(1) of the Roads Act to direct any person by whom a public road is dug up to restore the road to its previous condition.

The function under section 101(4) of the Roads Act to decide to take such action as is necessary to restore a road that has been dug up to its previous condition instead of giving a direction under section 101(1).

The function under section 103(1) of the Roads Act to direct the owner or occupier of land to erect or install fences lights or other equipment on or around any premises in the circumstances set out in the section.

The function under section 107 of the Roads Act to direct any person who causes an obstruction or encroachment on a public road, or the owner of any land that is used or is able to be used in connection with an obstruction or encroachment on a public road, to remove the obstruction or encroachment.

The function under section 115 of the Roads Act to decide to regulate traffic on a public road by means of barriers or notices conspicuously displayed on or adjacent to the road.

The function under section 122 of the Roads Act to decide to regulate traffic on specified or all public roads for which the Council is the Roads Authority under the Act in the manner set out in the section.

The function under section 125 of the Roads Act to grant an approval that allows a person who conducts a restaurant adjacent to a footway to a public road that is vested in fee simple in the Council to use part of the footway for the purposes of the restaurant.

The function under section 126(1) of the Roads Act to authorise the holder of an approval under section 125 to erect and maintain structures in on or over any part of the footway the subject of the approval or, if requested by the holder of the approval, erect and maintain any such structure.

The function under section 126(2) of the Roads Act to decide to erect and maintain structures in on over any part of the footway the subject of an approval for the protection of public health and safety.

The function under section 128 of the Roads Act to permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.

The function under section 130 of the Roads Act to revoke a permit granted under section 128.

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The function under section 133(1) of the Roads Act to permit the construction of a by-pass for vehicles as provided for in the section.

The function under section 136 of the Roads Act to revoke a permit granted under section 133(1).

The function under section 138 of the Roads Act to grant consent for works and other structures in respect of public roads.

The function under section 140 of the Roads Act to decide to revoke a consent granted under section 138.

The function under section 144 of the Roads Act to grant a permit to conduct a road event (as defined in the Act) on a public road.

The function under section 174 of the Roads Act to decide to apply to an authorised Justice to enter and inspect land for the purposes of the Act and in the circumstances set out in the section.

The function under section 242 of the Roads Act to decide to take proceedings in a Local Court for an offence against the Act or any Regulations made under the Act.

The function of deciding to bring, defend, appear in or settle such proceedings, as may be competently brought defended, appeared in or settled by Council.

### ***Conditions and Limitations***

***This function may only be exercised with the concurrence of the General Manager.***

The function of deciding to bring, defend, appear in or settle such proceedings, as may be competently brought defended, appeared in or settled by Council.

The function under section 246 of the Roads Act to decide to take such action as is necessary to rectify a contravention of the Act.

### ***Conditions and Limitations***

The function under section 246 of the Roads Act may only be exercised with the concurrence of the General Manager.

The function under section 247 of the Roads Act to decide to recover money owed to the Council under the Act as a debt in a court of competent jurisdiction.

The exercise of all the functions of the Authority under:

1 Division 2 of Part 8 (Regulation of Traffic by Roads Authorities) of the Roads Act 1993

### ***Conditions and Limitations***

*1 A council and its sub-delegate must not exercise a function:*

*(1) Outside the area constituted under the Local Government Act 1993 for which council is the council, or*

*(2) On a classified road under the Roads Act 1993 (except where exercising a function in respect of portable traffic control light signals).*

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*2 A Council and its sub-delegate may only exercise a function in respect of any prescribed traffic control device (defined in clause 131 of the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 for the purposes of section 50 of the Road Transport (Safety and Traffic Management) Act 1999 being:*

*(1) any prescribed traffic control device contained in the document, "Regulatory Signs" Version 1.0 dated may, 2001 (Reference No RTA/Pub 01.038 issued by the Authority, but excluding those which are indicated as 'Not delegated to Council' as listed in that document, and*

*(2) any portable traffic control lights, and under no circumstances, that is, despite (1) above, will a council or its sub-delegate be permitted to exercise a function in respect of any internally illuminated traffic control device.*

*3 (1) A Council and its sub-delegate must not exercise a function in respect of the following activities including the referral of the matter to the Local Traffic Committee until a Traffic management Plan, which must include an assessment of the impact of the exercise of the function and proposed measures to ameliorate such impact, has been approved by the Authority:*

*(a) The prohibition of the passage of traffic on a public road or road or road related area to any one or more of the following classes of traffic:*

- pedestrians*
- vehicles*
- motor vehicles*

*by physical means or regulatory signs (whether a prescribed traffic control device or otherwise) or both;*

*(b) the installation or display of the following traffic control signs on roads or road related areas:*

- No Right Turn*
- No Left Turn*
- No Entry*
- No Turns*
- Left Turn Only*
- Right Turn Only*
- No Trucks*
- No Buses*
- No Pedestrians*

*or the installation or display of any other sign or road marking prohibiting or compelling a turning movement;*

*(c) changing a two-way street into a one-way street or reversing the direction of a one-way street;*

*(d) the construction of a median strip including a painted island which prevents a turn by a vehicle at the intersection of public roads or roads or road related areas;*

*(e) reduction in the number of traffic lanes on a public road or road or road related area by physical means or regulatory signs (whether a prescribed traffic control device or otherwise) or both.*

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*(2) A Traffic management Plan is not required if council certifies to the Authority in writing that a No Trucks or No buses traffic control sign is to be erected solely for the purpose of protecting a road from damage by the passage of motor vehicles.*

*4 A council and its sub-delegate must not exercise a function in respect of portable traffic control light signals unless:*

*(1) the signals are used in connection with the carrying out of road work on public roads as authorised by the roads Act 1993; and*

*(2) no fixed equipment or fixed cables are used.*

*5 A sub-delegate must not exercise a function in respect of Division 2 or Part 8 (Regulation of Traffic by Roads Authorities) of the Roads Act 1993.*

*6 A council or its sub-delegate must not exercise a function until they have notified the Commissioner of Police and the Authority of any decision taken to exercise a function except where:*

*(1) the advice of the Local Traffic Committee is unanimous; and*

*(2) the council or its sub-delegate propose to follow such advice.*

*7 Where a council or its sub-delegate has notified or should have notified the commissioner of Police and the Authority of a decision to exercise a function, the council or its sub-delegate must not exercise a function for a period of fourteen (14) days from the date of notification.*

*8 Where an appeal has been made to the Chairperson of a Regional Traffic Committee in respect of a decision taken by a council or its sub-delegate to exercise a function, a council or its sub-delegate must not exercise the function until the Chairperson of the Regional Traffic Committee determines the appeal.*

*9 Where the chairperson of the Regional Traffic Committee has determined an appeal, the council and its sub-delegate must not exercise the function in respect of which an appeal has been made, otherwise than in accordance with the determination of the Chairperson.*

*10 Before installing or displaying a prescribed traffic control device, a council and its sub-delegate must authorise installation or display (or interference with, alteration or removal) of the device in writing in accordance with section 51 of the Road Transport (Safety and traffic Management) Act 1999.*

*11 A council or its sub-delegate shall keep a record of installation, display, alteration or removal of a traffic control device. Such a record must include the following:*

- Type and location of the traffic control device;*
- Time and date of completion of installation, display, alteration or removal of the traffic control device.*

*12 Where a council or its sub-delegate wishes to exercise a function in respect to a "Roadwork Speed Limit" traffic sign (Speed Series (R4) Sign No R4-212 in the document, "regulatory Signs" Version 1.0 dated may, 2001 reference No RTA/Pub 01.038, issued by the Authority), the following conditions apply:*

*(1) When the installation period of a 'Roadwork Speed Limit' sign is to be for 6 working days or less:*



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a) *authorisation of the use of the 'Roadwork Speed Limit' sign must be carried out by council or a sub-delegate who holds a current Traffic Control at worksites certificate issued by the Authority; and*

b) *the nearest office of the Authority is to be notified in writing of Council's intention to implement a roadwork speed limit prior to works commencing; and*

c) *the nearest Police Station is to be notified in writing of Council's intention to implement a roadwork speed limit prior to works commencing.*

(2) *When the installation period of a 'Roadwork Speed Limit' sign is to be for more than 6 working days:*

a) *authorisation of the use of the 'Roadwork Speed Limit' sign must be carried out by council or a sub-delegate who holds a current Traffic Control at Worksites Certificate issued by the Authority, and*

b) *the nearest office of the Authority is to be notified in writing of Council's intention to implement a roadwork speed limit 7 days prior to works commencing; and*

c) *the nearest Police Station is to be notified in writing of Council's intention to implement a roadwork speed limit 7 days prior to works commencing.*

(3) *The need for a 'roadwork Speed Limit' sign shall be determined in accordance with the document, "traffic Control at worksites" Version 2.0 dated October 1998 (Reference No TTT-003) issued by the Authority;*

(4) *'Roadwork Speed Limit' signs shall be installed in accordance with the "Traffic Control at Worksites" document (as already referred to);*

(5) *Records maintained by a council and its sub-delegate in respect to a 'Roadwork Speed Limit' sign must include:*

a) *council's or its sub-delegate's written authorisation of the installation [The sub-delegate's Traffic Control at Worksites Certificate number must be shown],*

b) *the location,*

c) *the installation time and date, and*

d) *the removal time and date.*

(6) *The 'Roadwork Speed Limit' sign is to be removed as soon as practicable after the road works have been completed.*

*13 Council and its sub-delegate must not exercise a function in respect to any of the roads within Sydney Olympic Park including the roads that are coloured mauve on the drawing marked "Sydney Olympic park Authority, Sydney Olympic Park, Drawing Number HS-J-L-006" dated 29 May 2001 and deposited in the office of the Sydney Olympic Park Authority (being all the roads referred to in section 41 of the Sydney Olympic Park Authority Act 2001).*

To exercise Council's functions and responsibilities under the Roads Act, 1993.

Section 15 - Grant Approval for Structures on Footpaths.



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### **WATER MANAGEMENT ACT 2000**

The function under Section 306 of the Act, as a Water Supply Authority, to require an applicant for a certificate of compliance under Section 305 of the Act to do either or both of the following:

- (a) To pay a specified amount to the Water supply Authority by way of a contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both;
- (b) To construct water management works to serve the development.

The function under Section 307 of the Act to grant a certificate of compliance for development:

- (a) Within 60 days after an application under Section 305 of the Act for the Granting of such a certificate is made; or
- (b) If, within the period, the Water Supply Authority imposes a requirement on the applicant, as soon as it is satisfied that the requirement has been complied with.

### **FREEDOM OF INFORMATION ACT 1989**

To authorise the conduct of an internal review.

Authorisation to carry out the duties and functions of the Information Officer.

### **LEGAL AND OTHER DOCUMENTS**

To sign and execute documents under the Common Seal of the Council in conjunction with the Mayor.

### **OCCUPATIONAL HEALTH & SAFETY ACT, 2002**

To implement Council's responsibilities under the Act.

### **MEDIA STATEMENTS AND PRESS RELEASES**

To make Media Statements and issue Press Releases in respect of Council resolutions and decisions.

### **MINES INSPECTION ACT, 1901**

Authorisation to nominate the General Manager and Production Manager.

### **HERITAGE ACT, 1977**

Section 25 - Make Interim Orders for items of local significance.

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(i) To make Interim Heritage Orders for items in the Warrumbungle Shire Local Government Area in accordance with Section 25 of the Heritage Act, 1977, and subject to the following conditions:

1. A Council must not make an Interim Heritage Order (IHO) unless:

(a) an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management plan of those items is in force in the Local Government area;

(b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the Council and considers that:

i) the items is or is likely to be found, on further enquiry and investigation, to be of local heritage significance;

ii) the items is being or is likely to be harmed;

iii) the IHO is confined to the item determined as being under threat; and

(c) where the IHO is made over land which includes an item which is likely to be found, on further enquiry and investigation, to be of significance to Aboriginal people, a Council must refer the proposal to make an IHO to the Heritage Office for assessment regarding significance and community consultation, before the IHO is made. Council must comply with the recommendations of the Heritage Office made in its assessment prepared pursuant to the referral.

2. A Council must not make an IHO where:

(a) the item is listed on:

i) an environmental planning instrument as an item of environmental heritage;

ii) the item is within a conservation area identified in an environmental planning instrument;

(b) the item is covered by an order under Section 130 or Section 136 of the Heritage Act 1977;

(c) the Council has previously placed an IHO on the item;

(d) the Court has granted development consent in relation to the item that permits the item to be harmed and the development consent is still in force.

3. A Council must not make an IHO in relation to item (s) that are located on land:

(a) that is Crown Land;

(b) which is being developed by or on behalf of the Crown;

(c) which is subject to a development declared to be State Significant Development under the Environmental Planning & Assessment Act, 1979.

For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial

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Corporations. "Crown is also taken to have the same meaning as specified in Section 57 (1A) (b) of the Heritage Act, 1977.

4. A Council must not make an IHO in respect of an item (which includes a building, work, relic or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an office or employee of the Crown or a Minister.

For the purposes of this clause, the "Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in Section 57 (1A) (b) of the Heritage Act, 1977. This clause does not apply to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Council.

5. An IHO made by a Council must contain the following condition:

(a) "This Interim Heritage Order will lapse after six months from the date it is made unless the local Council has passed a resolution before that date;

(b) in the case of an item which, in the Council's opinion is of local significance, to place the item on the heritage schedule of a local environmental plan (LEP) with appropriate provisions for protecting and managing the item; and

(c) in the case of an item which in the Council's opinion is of State heritage significance, to nominate the item for inclusion on the State Heritage Register."

6. A Council must ensure that the authorisation is carried out in accordance with guidelines issued from time to time by the Heritage Council and/or Heritage Office.

7. A Council must publish annually in its State of Environment Report or Annual Report a summary of all decisions regarding IHOs for that year and provide a copy to the NSW Heritage Office.

8. A Council will be responsible for defending proceedings in any Court relating to its decisions made under this authorisation (including the bearing of all costs).

(ii) That where it is considered that if upon further investigation of any item that Council may determine the item to be of local heritage significance and that it considers is being or is likely to be harmed.

Section 61 - To determine if public notice is to be given.

Section 62 - To determine applications for approval by granting approval either unconditionally or subject to conditions, or by refusing approval.

Section 63 - Determine deferred commencement approvals.

Section 63B - Grant particular conditional approvals.

Section 64 - Issue Notice of Determination

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Section 65A - Determine applications for modification of approvals.

**STATE EMERGENCY & RESCUE MANAGEMENT ACT, 1989**

Carry out Council's functions under the State Emergency and Rescue Management Act, 1989 and authorised to appoint Local Emergency Management Officer.

**CRIMES ACT 1996**

Issue penalty infringement notices under the Fines Act 1996 in relation to all offences under any Act or Regulation which enables such notices to be issued by Council.

**SCHEDULE 2**

(1) The function of delegation and sub-delegation by the General Manager pursuant to Section 378 of the Local Government Act, 1993 shall be exercised in writing signed by the General Manager.

(2) The Council may by resolution, direct the General Manager in the exercise of any of the functions herein delegated.

(3) The General Manager shall exercise the functions herein delegated in accordance with and subject to:-

(i) the provisions of the Local Government Act, 1993 and other relevant legislation;

(ii) Council Management Practices Manuals, Codes and Practices and Guidelines; and

(iii) each and every policy of the Council adopted by resolution and current at the time of the exercise of the function herein delegated.

**THE RECREATION VEHICLES ACT, 1983**

To regulate the off-road use of motor vehicles.

**THE ROAD TRANSPORT ACT, 2013**

To make provision with respect to road transport law in New South Wales.

**Clancy/Capel  
The motion was moved**

**Item 13 Tour De OROC**

Received.

**Item 14 Human Resources Report – September 2013**

Received.

**Item 15 Positive Council Award 2013**

Received.

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**Item 16 Progress Report Delivery Program 2012-2016**

**99/1314 RESOLVED** that Council accepts the 2012-2016 Delivery Program six (6) month Progress Report to 30 June 2013.


**Schmidt/Coe**  
**The motion was carried**

**Item 17 Council Resolutions Report September 2012 – August 2013**

Received.

**Item 18 Interaction Policy between Councillors and Staff**

**100/1314 RESOLVED** that Council endorse the following Interaction Policy between Councillors and Staff and that it be included in the Strategic Policy Register.

	<b>Interaction Policy between Councillors and Staff</b>
	<b>Strategic</b>

**1. Purpose**

This policy will:

- provide clear communication channels to ensure the speedy provision of accurate information;
- recognise the particular circumstances of the council;
- require adequate training of staff and Councillors on the need for the policy and its requirements;
- provide appropriate avenues for non-compliance; and
- be reviewed periodically to monitor its effectiveness and compliance

**2. Objectives of the Policy**

The objectives of this policy are to:

- provide a documented process on how Councillors can access Council records;
- ensure Councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of Council;
- ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner;
- provide direction on Councillors' rights of access to council buildings; and
- provide a clear and consistent framework for the reporting of, and appropriate application of actions for breaches of this policy.

**3. Policy Scope**

Based on the provisions in the *Local Government Act 1993*, Councillors and staff have distinctly different roles to play in Council. Council is responsible for the strategic direction and for determining the policy framework of Council. Council also has a statutory role as the consent authority, under both the *Environmental Planning and Assessment Act* and the *Local Government Act*, for applications for development consent and local approvals. The General Manager with the senior officers of Council is responsible for the effective

management of the organisation and the carrying out of Council's policies and strategic objectives.

However, the distinction between these two roles may, depending on the desires and aspirations of Council and the community, be unclear. There needs to be personal interaction between Councillors and senior officers, particularly regarding access to and provision of information, to effectively integrate policy making and service delivery. This has created the need for guidelines that help Councillors and staff to understand fully their respective roles and how they should operate, in order to perform their job effectively.

#### **4. Background**

Formalising procedures to specify how these rights should be exercised has been done without trying to restrict a Councillor's legal right to access staff and information. This policy is not intended to limit any statutory and common law rights Councillors have to access information. However, Councillors should avoid any perceptions of wrongdoing when exercising their rights as an elected representative, particularly the appearance of trying to improperly influence staff.

#### **5. Definitions**

##### **5.1. Statutory provisions for Councillors and Staff**

Chapters 9 and 11 of the Local Government Act set out the statutory roles and duties of Councillors and the General Manager. The introduction to Chapter 9 states that "each council is a statutory corporation. The Councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the Council in accordance with this Act." Chapter 9 includes the following provisions.

##### **The governing body (s.222)**

The elected representatives, called 'Councillors,' comprise the governing body of the Council.

##### **The role of the governing body (s.223)**

The role of the governing body is to direct and control the affairs of the Council in accordance with this Act.

##### **The role of the Mayor (s.226)**

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council (*for example, urgent demolition orders, authority to financially assist the community by the allocation of resources during natural disasters, commencement of urgent legal action*);
- to exercise such other functions of the council as the council determines (*for example, determining the appropriateness of holding a special event such as a fun run, approval of the general manager's annual leave*);
- to preside at meetings of the council; and
- to carry out the civic and ceremonial functions of the mayoral office.

##### **The role of a Councillor as a member of the governing body (s.232(1))**

The role of a Councillor is, as a member of the governing body of the Council is:



- 
- to provide a civic leadership role in guiding the development of the Community Strategic Plan for the area and to be responsible for monitoring the implementation of Council's Delivery Program
  - to direct and control the affairs of Council in accordance with this Act
  - to participate in the optimum allocation of Council's resources for the benefit of the area
  - to play a key role in the creation and review of the Council's policies and objectives and criteria relating to the exercise of Council's regulatory functions
  - to review the performance of Council and its delivery of services, and the Delivery Program and revenue policies of Council.

**The role of a councillor as an elected person (s.232(2))**

The role of a Councillor is, as an elected person:

- to represent the interests of the residents and ratepayers;
- to provide leadership and guidance to the community; and
- to facilitate communication between the community and Council.

**The role of the General Manager (s.335(1))**

The General Manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.

**The functions of the General Manager (s.335(2))**

The general manager has the following particular functions:

- to assist Council in connection with the development and implementation of the Community Strategic Plan and Council's Resourcing Strategy, Delivery Program and Operational Plan and the preparation of its Annual Report and State of the Environment Report
- the day-to-day management of Council
- to exercise such of the functions of Council as are delegated by Council to the General Manager
- to appoint staff in accordance with an organisation structure and resources approved by Council
- to direct and dismiss staff
- to implement Council's equal employment opportunity management plan.

The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

**6. Policy Statement**

**6.1. Inappropriate interactions**

Council's policy is that the following interactions are inappropriate:

- Councillors approaching Council staff other than Directors for information on sensitive or controversial matters.
- Council staff approaching Councillors directly on individual staffing matters.
- Councillors approaching Council staff outside the council building or outside hours of work to discuss Council business.
- Council staff refusing to give information which is available to other Councillors to a particular Councillor because of the staff member's or Councillor's political views.

- 
- Councillors who have lodged a Development Application with Council, discussing the matter with Council staff in staff-only areas of the Council building.
  - Councillors being overbearing or threatening to Council staff.
  - Councillors directing or pressuring Council staff in the performance of their work, or recommendations they should make.
  - Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.
  - Councillors approaching Council staff organisations; for example unions and associations; in relation to staffing matters that relate to individual staff members rather than broader industrial policy issues.
  - Council staff meeting with developers alone and outside office hours to discuss development applications or proposals.
  - Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by Council's General Manager or, in the case of the Mayor, exercising their power under section 226 of the Act.

### **6.2. *During meetings***

The interaction between Councillors and staff at Council meetings and committee meetings is regulated by:

- s.360 of the Local Government Act;
- cl.21 of the Local Government (Meetings) Regulation;
- Council's Code of Conduct and
- Council's Code of Meeting Practice

Section 360 of the Local Government Act enables Council to make regulations in regard to the conduct of meetings, adopt codes of meeting practice and states that meetings must be conducted in accordance with the Code of Meeting Practice.

Clause 21 of the Local Government (Meetings) Regulation details how, in Council meetings, Councillors can ask questions of other Councillors by going through the chairperson. The regulation also details the process Councillors must follow if they wish to ask a question of Council staff, by going through the General Manager.

### **6.3. *Outside of meetings***

The Meetings Regulation (cl.21) makes provision for a Councillor to obtain information at a Council meeting, or by a Question on Notice at a Council meeting.

- The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or Committee meeting, be directed to the General Manager, or person/s nominated by the General Manager.
- Only Directors (or Senior Officer as defined in s.332) and Managers nominated by the General Manager can provide advice to Councillors.
- For all but straightforward advice on administrative matters, Councillors should put their requests for information or advice in writing to be answered by the General

Manager or the appropriate Director. These written requests then form part of Council records and can be filed appropriately.

- A Director has the discretion to refer any request for information to the General Manager. The Director must indicate to the Councillor their reasons for the referral.
- If a Councillor is concerned about any refusal to provide information, they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the Councillor is still dissatisfied they should request the information by way of a Question on Notice to Council.
- Councillors must not attempt to direct Staff as to the performance of their work. Staff must report all such attempts immediately to their Director or the General manager. Councillors must not request staff to undertake work for the Councillor or any other person.
- A Councillor, member of staff or delegate must not take advantage of their official position to improperly influence other Councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.

#### **6.4. Access to Council Offices**

- As elected members of the Council, Councillors are entitled to have access to the Council chambers, Committee Meeting and Training room, Mayor's office, Interview rooms and public areas of the Council's buildings during normal business hours and for meetings.
- Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- A Councillor has no rights to enter staff-only areas without the express authorisation of the General Manager or nominee or by resolution of Council.
- Councillors must ensure that when they are within a staff area they are cognisant of potential conflict or pecuniary interest matters and should conduct themselves accordingly.

#### **6.5. Breaches of this Policy**

For this policy to be effective and meaningful, appropriate reporting of breaches and conduct reviews need to be established and consistently applied. All parties need to have confidence that the policy will be complied with and breaches will be dealt with appropriately. Any cases of clear breaches of the policy that are not dealt with appropriately will erode confidence in the ability of Council to deal with complaints and reduce the efficiency of the council.

The policy is linked with Council's Model Code of Conduct and breaches dealt with accordingly.

##### **6.5.1. Reporting**

- All occasions of a Councillor or Staff member not complying with this policy should be immediately reported to the General Manager.
- Where the report relates to the conduct of a Councillor, the General Manager shall immediately assess and either informally resolve the complaint, refer to another agency or body or refer to the Complaints Coordinator as per the Model Code of Conduct Procedure.

- The Conduct Reviewer will undertake a preliminary investigation and either decline, resolve or refer the matter to the Mayor or General Manager or another body; or investigate or recommend a conduct review investigation.
- Where the report relates to the conduct of Staff, the General Manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal and make provision for procedural fairness including the right of an employee to be represented by their Union.
- Where a Councillor believes that the General Manager has failed to comply with the policy, the Councillor shall immediately report to the Mayor who will report the matter to the Complaints Coordinator.
- Before a report to Council by the Conduct Reviewer or Conduct Review Committee a preliminary assessment and investigation must be implemented as per the Model Code of Conduct procedures.

#### **6.5.2. Sanctions**

If a breach has been determined, the Conduct Reviewer or Conduct Review Committee will provide to Council a report of the investigation and a recommendation of the sanctions. If Council elects to not accept this recommendation the Complaints Coordinator will notify the resolution to the Division of Local Government.

Sanctions for staff depend on the severity, scale and importance of the breach and must be in accordance with any staff agreements, awards, industrial agreements and contracts, and may include:

- counselling the Staff member;
- instituting Council disciplinary proceedings; or
- dismissal.

### **6.6. Access to Council records by Councillors**

#### **6.6.1. Statutory provisions**

Section 12 of the Local Government Act provides that Council must provide access to the current version of certain Council documents free of charge to all members of the public. These documents are:

- the model code prescribed under s 440(1) and code of conduct adopted by Council under s440(3)
- Council's Code of Meeting Practice
- Annual Report
- Annual Financial Statements
- Auditor's report
- Community Strategic Plan
- Delivery Program
- Operational Plan
- Resourcing Strategy – Workforce Management Strategy, Asset Management Plan and Long Term Financial Plan
- EEO Management Plan
- Council's Land Register

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- Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors;
- Quarterly Budget Review Statement
- Investments Register
- Returns of the interests of Councillors, designated persons and delegates;
- returns as to candidates' campaign donations;
- Business Papers for Council and Committee meetings (but not including business papers for matters considered when a meeting is closed to the public);
- Minutes of Council and Committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:
  - a) the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and
  - b) such other matters as Council or committee resolves should be made public;
- any codes referred to in this Act;
- Register of Delegations;
- Annual Reports of bodies exercising delegated Council functions;
- local policies adopted by Council concerning approvals and orders;
- records of approvals granted and decisions made on appeals concerning approvals;
- records of building certificates under the Environmental Planning and Assessment Act 1979;
- applications under Part 1 of Chapter 7 for approval to erect a building, and associated documents
- development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents
- plans of land proposed to be compulsorily acquired by Council;
- leases and licences for use of public land classified as community land;
- plans of management for community land;
- environmental planning instruments, development control plans and plans made under s.94AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area;
- the statement of affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989; and
- departmental representatives' reports presented at a meeting of Council according to s.433.
- the register of graffiti removal work kept in accordance with s67C

The Local Government (Meetings) Regulation, provides a procedure for Councillors to obtain access to Council documents, without limiting any common law right of access. Clause 41 provides:

- 1) The General Manager may allow or refuse to allow any Councillor to inspect any record of the Council that the Councillor requests to see.
- 2) If the General Manager refuses to allow a Councillor to inspect any such record, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.
- 3) If Council passes a motion for the production of a Council record, Council must ensure that the record:

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- a) is produced immediately and laid on the table for inspection by the Councillors; and
- b) is made available for inspection by any Councillor on reasonable notice to the General Manager during the council's ordinary office hours on any day that is within one month after the passing of the motion.

Sections 15(1) and 16(1) of the Freedom of Information Act 1989 also include provisions for members of the public to a general right of access to Council documents.

### **6.6.2. Procedures**

- Access to a Council file, record or other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common law rights of access.
- Councillors can request the general manager, the public officer or a person nominated by the general manager to provide access to a particular council record.
- Councillors who have a personal (as distinct from civic) interest in a document of council has the same rights of access as any other person.
- Councillors are entitled to access to all council files, records or other documents where that document is identified in s.12 of the *Local Government Act* or to a matter currently before the council.
- The general manager shall not unreasonably decide that a document is not relevant to the performance of the councillor's civic duty and deny access to a council document. The general manager must state their reasons for the decision if he refuses access.
- Councillors can request access to other documents of the council either by a Notice of Motion to the council or a Freedom of Information application.
- The general manager, public officer or a person identified by the general manager, shall keep a record of all requests by councillors for access to information (other than those listed in s.12 of the *Local Government Act*, the *Freedom of Information Act* or by a Notice of Motion at a council meeting). These requests must be reported regularly to the council.

## **7. Responsibilities**

Executive Services: General Manager

Corporate Services: Director Corporate Services

## **8. Associated Documents**

This Policy should be read in conjunction with the following:

Strategic Policies;

- Councils Model Code of Conduct
- Code of Meeting Practice
- Statement of Business Ethics
- Vision, Mission and Values
- Agency Information Guide

and the following Acts and Regulations

- Government Information (Public Access) Act 2009



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- Local Government Act (1993)
- NSW Government (General) Regulations (2005)

**9. Getting Help**

Position: General Manager

Department: Executive Services

**10. Version Control**

Review Date: September 2018


Staff Member Responsible for Review: General Manager

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Interaction Policy between Councillors and Staff	Endorsed	140	21 April 2005
Interaction Policy between Councillors and Staff	Endorsed	100/1314	19 September 2013

**Schmidt/Clancy**  
**The motion was carried**

**Item 19 Policy – Code of Meeting Practice**

**101/1314 RESOLVED** that Council endorse the following Code of Meeting Practice.

	<b>Code of Meeting Practice</b>
	Strategic

**CSP FOCUS AREA:**

Local Governance and Finance

**INTRODUCTION**

This Code of Meeting Practice has been prepared in accordance with Section 360 of the Local Government Act 1993, and, subject to giving public notice and exhibition as required by Section 361 of the Act, will apply to all meetings of Council and committees of Council of which all the members are Councillors. Further the Code of Meeting practice as set out within the text also apply to Advisory Committees of Council

The Code incorporates the provisions of the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's own decisions (Meeting Notices, etc.).

As required by the Local Government Act 1993 (Part 1 Section 10), all meetings of Council, Committees of Council and Advisory Committees of Council will be, as far as possible, open to the public, however, Council reserves the right (under Sections 10A (2) and 373) in accordance with current legislation to resolve itself into Committee and exclude the press and public to consider any matter of a confidential nature as determined from time to time.

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In determining this Code of meeting Practice a distinction has been made between those committees that come under the provisions of Clauses 259 and 260 of the Local Government (General) Regulations and its consequent implications and other committees called 'Advisory Committees'.

The committees of Council that come under Clause 259 of the Regulations are those committees of which all the members are Councillors.

Advisory Committees are those committees which have at least one staff member or one community representative as part of its membership. This Code of Meeting Practice also covers Advisory Committees and details of that application are set out in this Code.

### **Definitions**

1 In this Code:

**Act**, refers to the Local Government Act, 1993;

**Amendment**, in relation to an original motion, means a motion moving an amendment to that motion;

#### **Chairperson,**

(a) in relation to a meeting of a council - means the person presiding at the meeting as provided by Section 369 of the Act; and

(b) in relation to a meeting of a committee of a council - means the person presiding at the meeting as provided by Clause 267 of the Regulation (also see clause 36 of this Code);

**Committee**, in relation to a council, means a committee established under Clause 260 of the Regulation or the Council when it has resolved itself into a committee of the whole;

**Record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council;

**Relative**, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partner of the person referred to in paragraph (a) above

**the Code** means the Warrumbungle Shire Council Code of Meeting Practice; and  
**the Regulation** means the Local Government (General) Regulation 2005.

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- 2 Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

### **Act and Regulation**

3. (1) This Code is made pursuant to Section 360(2) of the Act.
- (2) It incorporates relevant provisions of the Regulation and Act.
- (3) In the event of any inconsistency between this Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### **Note to Text**

4. Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding.

### **1 REQUIREMENT TO MEET** (Sections 365 and 366 and Council Resolution)

- 1.1 The Council is required to meet at least ten (10) times each year, each time in a different month.
- 1.2 The Council shall, by resolution, set the time, date and place of ordinary meetings of the Council.

The Council will meet on the third Thursday of each month for the purpose of holding its ordinary meetings.

Council meetings will alternate between Coonabarabran and Coolah.

- 1.3 The Council may, by resolution, set the time, date and place of special meetings of the Council.
- 1.4 The Mayor may call extraordinary meetings of the Council.
- 1.5 If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an extra-ordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after receipt of the request.
- 1.6 For the purpose of subsection (5), a working day is a day that is not a Saturday, Sunday or public holiday.
- 1.7 Council Committees and Advisory Committees shall meet from time to time as determined.

### **2 NOTICE OF AND ATTENDANCE AT MEETINGS** (Section 367 of the Act, Clause 232 of Local Government (General) Regulations 2005 and Council Resolutions)

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- 2.1 Written Notice, of Ordinary Meetings as well as Committee Meetings, (except as otherwise provided) of the business proposed to be transacted shall be given to Councillors in electronic format not later than the fifth day prior to the regular day for such meeting (Friday prior to the ordinary meeting day being a Thursday).
- 2.2 Written notice of Extraordinary Meetings and (except as otherwise provided) of the business for consideration shall be posted or given to Members:
- (a) in ordinary circumstances - **not less than three (3) days** prior to the proposed date of such meeting. and
  - (b) in circumstances which are urgent in the opinion of the Mayor - not less than 24 hours prior to the time of the commencement of such meeting.
- 2.3 The written notice of all meetings must also specify the time, date and place at which the meeting will be held.
- 2.4 A notice under this section and the agenda for, and the business papers relating to, the meeting, may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and business papers in that form.
- 2.5 A notice of a meeting of Council or of a committee of Council (of which all the members are councillors) must be published in a newspaper circulating in the area before the meeting takes place. The notice must specify the time and place of the meeting. Notice of more than one meeting may be given in the same notice. This requirement does not apply to an extraordinary meeting of Council or committee.
- 2.6 (i) Everyone is entitled to attend a meeting of the Council and those of its committees of which all the members are Councillors, and
- (ii) a Council must ensure that all meetings of the Council and of such committees are open to the public.
- 3 PROCEDURE FOR CLOSING MEETINGS TO THE PUBLIC – AND REPRESENTATIONS BY MEMBERS OF THE PUBLIC – closure of part of meeting** (Section 10A of the Act and Clauses 252 and 264 of Regulation)
- 3.1 Copies of the business paper for Council and Committee meetings shall be available at the Council Chambers for inspection by the public from the Monday prior to the meeting being held. Written representations, by members of the public, on whether items proposed to be considered in committee should be closed to the public will be accepted by the General Manager up until the commencement time of the meeting as set out in the Business Paper.
- 3.2 After a motion to close part of the meeting has been moved and seconded the Mayor or chairman will then ask the General Manager if there are any written representation's from the public on the proposed closure. The General Manager will read out any such written representations.

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- 3.3 Council, or a committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting would be closed.
- 3.4 A representation at a Council meeting or committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- 3.5 That period is fixed by this Code of Meeting Practice at five (5) minutes. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.
- 3.6 The Chairman will then ask if any person wishes to make verbal representations concerning the closure of the meeting. Each person who wishes to comment and has not made written representation will be invited to do so and will be selected at random to speak. The time limit allowed will be two (2) minutes per person on the motion before Council.
- 3.7 The Council or the Committee will in light of the representations made then determine what parts of the meeting will be considered in committee, if any.
- 3.8 In urgent cases the Council or committee may close a part of the meeting without prior notice where it becomes apparent during the course of debate that a matter should be considered in a closed meeting, and the matter is decided, by resolution of the council or committee, to be too urgent to defer. Such resolution to close the meeting will not be put to the vote until the public have been allowed to make verbal representations of the proposed closure.
- 4 QUORUM** (Section 368 of the Act and Clause 233 of Regulation)
- 4.1 The quorum for a meeting of the Council or Committee of Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.
- 4.2 A meeting of a Council or Committee must be adjourned if a quorum is not present:
- (a) within half an hour after the time designated for the holding of the meeting, or
  - (b) at any time during the meeting.
- 4.3 In either case, the meeting must be adjourned to a time, date and place fixed
- (a) by the Chairperson, or
  - (b) in his or her absence - by the majority of the Councillors present, or
  - (c) failing that, by the General Manager.
- 4.4 The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council or Committee, together with the names of the Councillors present.
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### **5 PRESENCE AT COUNCIL MEETINGS AND LEAVE OF ABSENCE**

(Clauses 235 and 235A Regulation)

- 5.1 A Councillor cannot participate in a meeting of a Council or Committee unless personally present at the meeting.
- 5.2 Councillors present at meetings are expected to refrain from leaving the meeting room during the course of the meeting, unless the concurrence of the Chair is obtained or they are absenting themselves because of a conflict of interest. Where any Councillor leaves the meeting while it is in progress the time at which they left, and the time at which they returned is to be recorded in the minutes of the meeting.
- 5.3 A Councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent.
- 5.4 A Councillor who intends to attend a Council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least two (2) days' notice of his or her intention to attend.

### **6 MEETING CHAIRMAN** (Section 369 of Act and Clause 236 Regulation)

- 6.1 The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor shall preside at meetings of the Council or Committee.
- 6.2 If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present will preside at a meeting of the Council or Committee.
- 6.3 If no Chairperson is present at a meeting of a Council or Committee of Council, at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 6.4 The election must be conducted
  - (a) by the General Manager, or in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
  - (c) if, at an election of a Chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
  - (d) for the purposes of subclause (c), the person conducting the election must:
    - (i) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
    - (ii) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.



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- (e) the candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

### **7 MOTIONS - CHAIRPERSON'S DUTIES** (Clause 237, 238, 246 and 247 of Regulations)

7.1 When the Chairperson rises during a meeting of a Council or Committee:

- (a) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
- (b) every Councillor present must be silent to enable the chairperson to be heard without interruption.

7.2 It is the duty of the Chairperson at a meeting of a Council or Committee to receive and put to the meeting any lawful motion that is brought before the meeting.

7.3 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

7.4 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

7.5 A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling of the motion to be seconded. (Mayoral/Official Minutes and a motion that the question be now put are excepted.)

7.6 The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

7.7 If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before Council at any one time.

7.8 It is permissible to debate the motion and an amendment concurrently.

7.9 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

### **8 MOTIONS OF DISSENT** (Clause 248 Regulation)

- 8.1 (a) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (b) If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.

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- (c) Only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

### **9 VOTING ENTITLEMENTS** (Sections 370 and 371 of the Act)

- 9.1 Each Councillor is entitled to one vote.
- 9.2 The person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.
- 9.3 A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council or Committee.

### **10 AGENDA and BUSINESS PAPERS for Council meetings** (Clause 240, 242 and 244 of Regulation)

- 10.1 The General Manager is to ensure that an Agenda for any Ordinary Meeting of Council or Committee of Council states
    - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council or committee, and
    - (b) if the Mayor (or the Deputy Mayor if acting for the Mayor) is the Chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
    - (c) subject to subclause (2), any business of which due notice has been given.
  - 10.2 The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
  - 10.3 The Agenda for a meeting of the Council or a committee of the Council is to be prepared as soon as practicable before the meeting.
  - 10.4 The General Manager must ensure that the details of any item of business to which section 9(2A) [*see annexure*] of the Act applies are included in a Business Paper for the meeting concerned.
  - 10.5 Nothing in this clause limits the powers of the Chairperson under Clause 243 of the Regulations.
  - 10.6 If a confidential Business Paper is prepared, the business must be referred to in the ordinary agenda prepared for the same meeting.
  - 10.7 The grounds on which a meeting of the Council or Committee of Council is closed to the Public must be specified in the decision to close the meeting and recorded in the minutes or report of the meeting.
  - 10.8 The General Manager must ensure that the agenda for an extraordinary meeting of Council or Committee of Council deals only with the matters stated in the Notice of Meeting.
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10.9 Despite subclause 10.8, business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting, and
- (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

10.10 Only the mover of a motion referred to in subclause 10.9 can speak to the motion before it is put.

10.11 When a report of a Departmental representative has been presented to a meeting of a Council in accordance with Section 433 of the Act, the Council must ensure that the report:

- (a) is laid on the table at the meeting; and
- (b) is subsequently available for the information of Councillors and members of the public at all reasonable times.

### **11 ORDER OF BUSINESS** (Clause 239 Regulation)

11.1 The general order of business at a meeting of Council or Committee of Council (other than an extraordinary meeting) will be fixed by Council from time to time and in accordance with this Code of Meeting Practice. Business will be listed by the General Manager as follows:

- (i) Opening of ordinary meeting
- (ii) Forum
- (iii) Apologies
- (iv) Endorsement of Minutes of Previous Council Meeting/s and adoption or acceptance of Committee meeting minutes
- (v) Mayoral/Official Minutes
- (vi) Reports to Council by General Manager and relevant staff
- (vii) Reports to Closed Council
- (viii) The General Manager advises the meeting of the Resolutions from the Closed Meeting

11.2 It is an expectation that all Councillors, the General Manager and Council employees attending the meeting and the members of the public gallery turn all mobile phone and/ or electronic devices onto 'silent' or 'off'..

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11.3 The order of business may be altered if a motion to that effect, which can be moved without notice, is carried. Only the mover of such a motion may speak to it before it is put.

### **12 NOTICE OF BUSINESS (Clause 241 Regulation)**

12.1 In order for business to be transacted at a meeting of Council or Committee of Council:

- (a) A Councillor must give notice in writing of any business he/she wants discussed by the Monday, of the week prior to the Ordinary Meeting or Committee Meeting day to allow inclusion in the Agenda. Matters requiring investigation should be lodged as early as possible.
- (b) Notice of the business must be sent to Councillors in accordance with the provisions of Section 367 of the Act.

12.2 Subclause 12.1 does not apply to the consideration of business at a meeting if the business:

- (a) is already before, or directly relates to a matter that is already before the Council, or
- (b) is the election of a Chairperson to preside at the meeting as provided by clause 236(1), or
- (c) is a matter or topic put to the meeting by the Chairperson in accordance with clause 243, or
- (d) is a motion for the adoption of recommendations of a committee of the Council.
- (e) reports of Committees of the Council;
- (f) reports from officers which in the opinion of the Chairperson or the General Manager are urgent; and
- (g) reports from officers placed on the business pursuant to a decision of a Committee that additional information be provided to the Council in relation to a matter before the Committee.

12.3 Business may be transacted at a meeting of Council or Committee of Council when due notice has not been given to Councillors, but only if:

- (a) a motion is passed to have the business transacted at the meeting, and
- (b) the motion is one that can be moved without notice, and
- (c) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

12.4 Only the mover of a motion referred to in (12.3) can speak to the motion before it is put.

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### **13 MAYORAL/OFFICIAL MINUTES** (Clause 243 Regulation)

- 13.1 If the Mayor (or Deputy Mayor if acting for the Mayor) is the Chairperson of a meeting of a Council, he or she is, by way of minutes signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or Committee of which the Council has official knowledge.
- 13.2 Such a minute, when put to the meeting, takes precedence over all business on the Council's Agenda for the meeting. The chairperson (but only if the chairperson is the Mayor) (or the Deputy Mayor if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- 13.3 A recommendation made in a minute of the chairperson (being the Mayor) (or Deputy Mayor if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

### **14 MINUTES** (Section 375 of the Act and Clauses 254 and 266 of Regulations)

- 14.1 The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council or Committee.
- 14.2 The correctness of the Minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such Minutes may be confirmed.
- 14.3 A motion or discussion with respect to such Minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- 14.4 Minutes may be confirmed at an extraordinary meeting of the Council.
- 14.5 The minutes must, when they have been confirmed at a subsequent meeting of the Council or Committee, be signed by the person presiding at that subsequent meeting.
- 14.6 The General Manager must ensure that the following matters are recorded in the Council's Minutes:
- (a) details of each motion moved at a Council meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment is passed or lost.

### **15 RESCINDING OR ALTERING RESOLUTIONS** (Section 372 of Act)

- 15.1 A resolution passed by Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under Section 360 and Council's Code of Meeting Practice.
- 15.2 a) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

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(b) Where a notice of motion to rescind has been given at a meeting, formal notice must be submitted to the General Manager within three (3) working days and if no such notice is received, the resolution may be carried into effect.

(c) At any time after the meeting at which it is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.

15.3 If a motion has been negatived by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's code of meeting practice.

15.4 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the Council, must be signed by three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.

15.5 If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within three (3) months. This provision may not be evaded by substituting a motion differently worded, but in principle the same.

15.6 A motion to which this provision applies may be moved on the report of a committee of the council or advisory committee of Council and any such report must be recorded in the minutes of the meeting of the Council.

15.7 The provisions of this section concerning negatived motions do not apply to motions of adjournment.

### **16 NOTICE OF MOTION - ABSENCE OF MOVER** (Clause 245 of Regulation)

16.1 In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a Council or Committee:

(a) any other Councillor may move the motion at the meeting, or

(b) the Chairperson may defer the motion until the next meeting of the council or committee at which the motion can be considered.

### **17 NOTICES OF MOTION – MINIMUM NOTICE REQUIRED**

17.1 A formal Notice of Motion by a Councillor, not being the Mayor, which is to be included in the General Manager's report in a Business Paper, should be submitted in writing to the General Manager seven days before the meeting at which it is to be resolved; unless the matter is of an urgent nature.

17.2 If the Mayor wishes, because of importance or urgency, he/she may include the matter in a Mayoral minute. If the Mayor refuses to accept the motion for inclusion in a Mayoral minute, such a refusal shall be noted and recorded in the minutes of the meeting.

17.3 Staff, through the General Manager, may comment on a Councillor's Notice of Motion, but shall not make a recommendation.



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17.4 Presentation of the Notice of Motion shall not be delayed beyond the next Ordinary meeting of Council without the consent of the Mayor and the Councillor lodging the Notice of Motion, or the Council in meeting.

17.5 The Mayor may, at the request of the Councillor giving notice of motion or with his consent, present the Notice of Motion to Council as a Mayoral minute.

**18 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES**  
(Clause 249 Regulation)

18.1 A Councillor:

- (a) may, through the Chairperson, put a question to another Councillor; and
- (b) may, through the Chairperson and the General Manager, put a question to a Council employee.

18.2 However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

18.3 The Councillor must put every such question directly, succinctly and without argument.

18.4 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this section.

18.5 Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.

**19 LIMITATION AS TO NUMBER OF SPEECHES** (Clause 250 Regulation)

19.1 A Councillor who, during a debate at a meeting of a Council or Committee, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

19.2 A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

19.3 A Councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

19.4 Despite subclauses 19.1 and 19.2, a Councillor may move that a motion or an amendment be now put:

- (a) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it; or

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- (b) if at least two (2) Councillors have spoken in favour of the motion or amendment and at least two (2) Councillors have spoken against it.
- 19.5 The Chairperson must immediately put to the vote, without debate, a motion moved under subclause 19.4. A seconder is not required for such a motion.
- 19.6 If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause 19.1.
- 19.7 If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 19.8 Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.
- 20 VOTING AT COUNCIL MEETINGS** (Clause 251 Regulation)
- 20.1 A Councillor who is present at a meeting of a Council or Committee but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This does not apply to a Councillor who has declared a pecuniary interest in the matter before Council.
- 20.2 If a Councillor who has voted against a motion put at a Council or Committee meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the minutes.
- 20.3 The decision of the chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.
- 20.4 When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.
- 20.5 Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for the Mayor or Deputy Mayor is to be by secret ballot.
- 20.6 A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.
- 21 QUESTIONS OF ORDER** (Clause 255 Regulation)
- 21.1 The Chairperson, without the intervention of any other Councillor, may call any councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
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- 21.2 A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- 21.3 The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- 21.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### **22 ACTS OF DISORDER** (Clause 256 Regulation)

- 22.1 A Councillor commits an act of disorder if the Councillor, at a meeting of a Council or Committee of a Council:
- (a) contravenes the Act or any regulation in force under the Act or this Code
  - (b) assaults or threatens to assault another Councillor or person present at the meeting
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter
  - (d) insults or makes personal reflections on or imputes improper motives to any other Councillor
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.
- 22.2 The Chairperson may require a councillor
- (a) to apologise without reservation for an act of disorder referred to in subclause 22.1 (a) or (b)
  - (b) to withdraw a motion or an amendment, referred to in subclause 22.1 (c) and, where appropriate, to apologise without reservation
  - (c) to retract and apologise without reservation for an act of disorder referred to in subclause 22.1 (d) or (e).
- 22.3 A Councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council for having failed to comply with a requirement under subclause 22.2. The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

### **23 HOW DISORDER AT A MEETING MAY BE DEALT WITH** (Clause 257 Regulation)

- 23.1 If disorder occurs at a meeting of a Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.

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23.2 A member of the public may, as provided by Section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

### **24 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION** (Clause 258 Regulation)

24.1 If a Councillor or a member of the public fails to leave the place where a meeting of a Council is being held:

(a) immediately after the Council has passed a resolution expelling the Councillor or member from the meeting, or

(b) where the Council has authorised the person presiding at the meeting to exercise the power of expulsion – immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place and, if necessary, restrain the Councillor or member from re-entering that place.

### **25 COMMITTEE OF THE WHOLE** (Clauses 259 Regulation)

25.1 The Council may resolve itself into a Committee of the whole to consider any matter before the Council.

25.2 All the provisions of this Regulation relating to meetings of a Council or Committee, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.

25.3 The General Manager or, in the absence of the General Manager, an employee of the Council designated by the General Manager is responsible for reporting to the Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.

25.4 The Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### **26 RESOLUTIONS OF CLOSED MEETINGS TO BE MADE PUBLIC** (Clause 253 Regulation)

26.1 When the Council passes a resolution during a meeting or part of a meeting, that is closed to the public, the Chairperson must make public the resolution as soon as practicable after the meeting or part of the meeting has ended.

26.2 Obviously, in some circumstances, commercial or legal issues will determine when it is practicable to release details. However, as a general rule, the public should be kept informed of committee or closed session resolutions in an adequate and timely manner.

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### **27 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED**

27.1 If a meeting or part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with Section 10A of the Act, a person must not, without authority of the Council or the Committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.

27.2 This clause does not apply

- (a) to the report of an Advisory Committee of Council when represented to the Council, or
- (b) to the disclosure of information referred to in subclause 27.1 by a Councillor or employee of the Council in the course of the Councillor's or employee's duties.

### **28 INSPECTION OF THE MINUTES OF COUNCIL, COMMITTEES OR ADVISORY COMMITTEES (Clause 272 Regulation)**

28.1 An inspection of the minutes\* of a council, committee of a council or advisory committee is to be carried out under the supervision of the General Manager or an employee of the council designated by the General Manager to supervise inspections of those minutes.

28.2 The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council or Advisory Committee are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

- \* Section 12 of the Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a Council or Committee of a Council.

### **29 ACCESS TO RECORDS**

29.1 The General Manager may allow or refuse to allow any Councillor to inspect any record of the Council that the Councillor requests to see.

29.2 If the General Manager refuses to allow a Councillor to inspect any such records, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.

29.3 If the Council passes a motion for the production of a Council record, the General Manager must ensure that the record

- (a) is produced immediately and laid on the table for inspection by the Councillors, and
- (a) is made available for inspection by any Councillor on reasonable notice to the General Manager during the Council's ordinary office hours on any day that is within one (1) month after the passing of the motion.

29.4 Nothing in this clause derogates from the common law right of Councillors to inspect any record of the Council relating to any business before the Council,

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except where the Councillor requesting inspection has a pecuniary interest in the matter.

**30 TAPE RECORDING OF MEETING OF COUNCIL, COMMITTEE OR ADVISORY COMMITTEE PROHIBITED WITHOUT PERMISSION**

(Clause 273 Regulation)

- 30.1 A person may use a tape recorder to record the proceedings of a meeting of a Council, a Committee of a Council or Advisory Committee only with the authority of the Council, the Committee or Advisory Committee.
- 30.2 A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a tape recorder in contravention of this clause.
- 30.3 If any such person, after being notified of such a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering, that place.
- 30.4 In this clause "tape recorder" includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

**31 COUNCIL MAY APPOINT / ESTABLISH ADVISORY COMMITTEES**

(Clause 260 Regulation)

- 31.1 Council may, by resolution, appoint or establish such Advisory Committees as it considers necessary.
- 31.2 Advisory committees are bound by the provisions of this Code of Meeting Practice except for:
- Clause 3 relating to procedures to go into Closed Committee, and
  - Clause 2.3 relating to the requirement to advertise meeting dates times and places
- 31.3 Advisory Committees are to consist of such number of Councillors, Council employees and outside representatives, as the Council decides.
- 31.4 In all instances, except where specifically resolved by Council, Council employees shall have no voting rights.
- 31.5 The quorum for a meeting of an Advisory Committee is to be such number of members as the Council decides, or if the council has not decided a number - a majority of the members of the Advisory Committee.
- 31.6 A Council Committee must keep minutes. This, and section 12(1) of the Local Government Act, will ensure that Committee recommendations or decisions (made under delegated power) are available for public inspection.



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### **32 FUNCTIONS OF ADVISORY COMMITTEES** (Clause 261 Regulation)

32.1 Council will specify the functions of each of its Advisory Committees when the Advisory Committee is appointed or established, but may from time to time amend those functions.

### **33 NOTICE OF ADVISORY COMMITTEE MEETING TO BE GIVEN** (Clause 262 Regulation)

33.1 The General Manager, or Council employee as delegated by the General Manager, must send to each Advisory Committee member, at least **seven (7)** days before each meeting of the Advisory Committee, a notice specifying

- (a) the time and place at which and the date on which the meeting is to be held, and
- (b) the business proposed to be transacted at the meeting.

33.2 However, notice of less than five (5) days may be given of an Advisory Committee meeting called in an emergency.

### **34 NON-MEMBERS ENTITLED TO ATTEND ADVISORY COMMITTEE MEETINGS** (Clause 263 Regulations)

34.1 A Councillor who is not a member of an Advisory Committee of a Council is entitled to attend, and speak at, a meeting of the Committee.

34.2 However, the Councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting

34.3 The General Manager (or his representative), when all his or her nominees are at the Advisory Committee Meeting, is entitled to attend and speak at, but is not entitled to vote at, a meeting of the Advisory Committee.

### **35 PROCEDURE IN ADVISORY COMMITTEES** (Clause 265 Regulation)

35.1 Each Advisory Committee of a Council may regulate its own procedure but must have regard to this Code of Meeting Practice

35.2 Without limiting subclause 35.1, an Advisory Committee of a Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.

35.3 Voting at a Committee Meeting is to be by open means (such as on the voices or by show of hands).

### **36 CHAIRPERSON AND DEPUTY CHAIRPERSON OF ADVISORY COMMITTEES** (Clause 267 Regulation)

36.1 The Chairperson of each Advisory Committee of the Council must be

- (a) The Mayor, or

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- (b) if the Mayor does not wish to be the Chairperson of an Advisory Committee - a member of the Committee elected by the Council, or
  - (c) if the Council does not elect such a member - a member of the Advisory Committee elected by the Advisory Committee.
- 36.2 A Council may elect a member of an Advisory Committee of the Council as Deputy Chairperson of the Advisory Committee. If the Council does not elect a Deputy Chairperson of such an Advisory Committee, the Advisory Committee may elect a Deputy Chairperson.
- 36.3 If neither the Chairperson nor the Deputy Chairperson of an Advisory Committee of a Council is able or willing to preside at a meeting of the Advisory Committee, the Advisory Committee must elect a member of the Committee to be Acting Chairperson of the Advisory Committee.
- 36.4 The Chairperson is to preside at a meeting of an Advisory Committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the Acting Chairperson is to preside at the meeting.
- 36.5 The Mayor is, by virtue of holding that Office, a member of each Advisory Committee of the Council except for the Occupational Health and Safety Advisory Committee and the Consultative Advisory Committee where there are legislative requirements concerning membership.
- 37 ABSENCE FROM ADVISORY COMMITTEE MEETINGS** (Clause 268 Regulation)
- 37.1 A member (other than the mayor) ceases to be a member of an Advisory Committee if the member:
  - (a) has been absent from three (3) consecutive meetings of the Advisory Committee without having given reasons acceptable to the Advisory Committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the Advisory Committee held during the immediately preceding year\* without having given to the Advisory Committee acceptable reasons for the member's absences.
- \* *The expression "year" means the period beginning 1 July and ending the following 30 June.*
- 37.2 Subclause (37.1) does not apply in respect of a Committee that consists of all of the members of the Council.
- 38 REPORTS OF ADVISORY COMMITTEES** (Clause 269 Regulation)
- 38.1 If in a report of an Advisory Committee of the Council, distinct recommendations are made, the decision of the Council may be made separately on each recommendation.

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38.2 The recommendations of an Advisory Committee of the Council are, so far as adopted by the Council, resolutions of the Council.

38.3 If an Advisory Committee of a Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:

- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended,
- (b) report the resolution or recommendation to the next meeting of the Council.

### **39 DISORDER IN ADVISORY COMMITTEE MEETINGS** (Clause 270 Regulation)

39.1 The provisions of the Act and of the Regulation relating to the maintenance of order in council meetings apply to meetings of Advisory Committees of the Council in the same way as they apply to meetings of the Council.

### **40 ADVISORY COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETING** (Clause 271 Regulation)

40.1 If a meeting or part of a meeting of an Advisory Committee of a Council is closed to the public in accordance with Section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by Section 10 (2) (a) or (b) of the Act.

40.2 If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, Committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place, and, if necessary, restrain that person from re-entering, that place.

### **41 COUNCIL DECISIONS** (Section 374 Local Government Act)

41.1 Proceedings at a meeting of a Council or a Council Committee are not invalidated because of:

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any Councillor or Committee Member, or
- (c) any defect in the election or appointment of a Councillor or Committee Member, or
- (d) a failure of a Councillor or a Committee Member to disclose a pecuniary interest, or to refrain from the consideration or discussion of/or vote on, the relevant matter, at a Council or Committee meeting in accordance with Section 451, or
- (e) a failure to comply with the Code of Meeting Practice.

### **42 RECORDING OF VOTING ON PLANNING MATTERS** (Section 375A Local Government Act)

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- 42.1 In this section, **planning decision** means a decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979:
- (a) including a decision relating to a Development Application, an Environmental Planning Instrument, a Development Control Plan or a Development Contribution Plan under that Act, but
  - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- 42.2 The General Manager is required to keep a register containing, for each planning decision made at a meeting of the Council or a Council Committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or are taken to have opposed) the decision.
- 42.3 For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.
- 42.4 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- 42.5 This section extends to a meeting that is closed to the public.
- 43 ATTENDANCE OF GENERAL MANAGER AT MEETINGS** (Section 376 Local Government Act)
- 43.1 The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a Meeting of a Committee of the Council of which all the members are Councillors.
- 43.2 The General Manager is entitled to attend a Meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
- 43.3 However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.
- 44 COUNCIL SEAL** (Clause 400 Regulation)
- 44.1 The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.
- 44.2 The seal of a Council may be affixed to a document only in the presence of:
- (a) the Mayor and the General Manager, or
  - (b) at least one Councillor (other than the Mayor) and the General Manager, or
  - (c) the Mayor and at least one other Councillor, or
  - (d) at least two (2) Councillors other than the Mayor
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- 44.3 The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause 44.2) attest by their signatures that the seal was affixed in their presence.
- 44.4 The seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- 44.5 For the purposes of subclause 44.4, a document in the nature of a reference or certificate of service for an employee does not relate to the business of the Council.

### **Annexure**

#### **Extracts from Local Government Act**

##### **Section 9 provides:**

- (1) A Council must give notice to the public of the times and places of its meetings and meetings of those of its Committees of which all the members are Councillors.
- (2) A Council and each such Committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
  - (a) the Agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
  - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.
- (3) The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- (4) The copies are to be available free of charge.
- (5) A notice given under this section or a copy of an Agenda or of a Business Paper made available under this section may in addition be given or made available in electronic form.

##### **Section 10A provides:**

- (1) A Council, or a Committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:

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- (a) the discussion of any of the matters listed in subclause (2), or  
(b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
- (a) personnel matters concerning particular individuals (other than Councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the Council, Councillors, Council staff or Council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) alleged contraventions of any code of conduct requirements applicable under section 440.

**Sections 10A (3) and (4) provides:**

- (3) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) A Council, or a Committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed

**PROCEDURE DOCUMENT CONTROL:**

Procedure		Resolution	Date
Code of Meeting Practice	Endorsed	196	20 May 2005
Code of Meeting Practice	Amended	388	21 May 2009
Code of Meeting Practice	Amended	101/1314	19 September 2013

**Schmidt/Capel  
The motion was carried**



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**Item 20 Conduct Review Panel - Warrumbungle Shire Council**

**102/1314 RESOLVED** that the persons listed as follows be appointed as members to Warrumbungle Shire Council Code of Conduct Panel of Conduct Reviewers.

<b>First</b>	<b>Last</b>	<b>Company</b>
Chris	Gallagher	Chris Gallagher (Bateau Bay)
Lee	Downes	Investigation Associates Australia (Liverpool)
Peter	Mulhall	
Mark	Pigram	TQC Solutions (Westmead)
Andrew	Fletcher	Andrew Fletcher Consulting (Bathurst)
Norman	Mann	Norman Mann (Bathurst)
Monica	Kelly	Prevention Partners
Kathy	Thane	Train Reaction Pty Ltd (Balmain)
Greg	Wright	Wright Associates (Picton)
Kath	Roach	Sinc Solutions (Glebe)
Kelvin	Kenney	O'Connor Marsden & Associates (Sydney CBD)
Paul	Crennan	Crenna Legal (Bathurst)

**Clancy/Andrews  
The motion was carried**

**Item 21 Bank Reconciliation for month ending 31 August 2013**

**103/1314 RESOLVED** that Council accept the Bank Reconciliation Report for the month ending 31 August 2013.

**Clancy/Schmidt  
The motion was carried**

**Item 22 Investments and Term Deposits**

**104/1314 RESOLVED** that Council accept the Investments Report for the month ending 31 August 2013.

**Schmidt/Capel  
The motion was carried**

**Item 23 Strategic Policy – Investment Policy**

**105/1314 RESOLVED** that Council endorses the following Investment Policy to be included in the Strategic Policy Register.

	<b>Investment Policy</b>
	<b>Strategic</b>

### **Purpose**

The purpose of this policy is to provide a framework for the investing of Warrumbungle Shire Council's surplus funds at the most favourable rate of interest available to it at the time whilst having due consideration of risk and security for that investment type and ensuring that its liquidity requirements are being met.

### **Objectives of the Policy**

Council's investment policy is a governing document that guides the investment process and communicates Council's:

- Investment philosophy;
- Overall risk philosophy;
- Investment objectives and expectations;

Council's investment policy also identifies the roles for those involved in the investment process, and details the requirements for compliance with the policy's goals and procedures.

### **Policy Scope**

This policy applies to all investments and funds managed by Council.

### **Background**

The DLG's Investment Policy Guidelines which guides Council's investment decisions requires that councils maintain an investment policy that complies with the Act, the LGGR, and the Ministerial Investment Order and ensure it or its representatives exercise care, diligence and skill that a prudent person would exercise in investing council funds.

Council's investment policy has been prepared to adhere to the requirements of the Act, the Ministerial Investment Order, and the Investment Policy Guidelines, and to provide an overarching document that details Council's investment philosophy, overall risk philosophy, investment objectives and considerations, as well as detailing responsibilities and limits on what Council can and can't invest in.

### **Definitions**

N/A

### **Policy Statement**

#### **Investment Considerations**

While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity, diversification of investments, and maximizing the return of investment. Council therefore has four primary objectives for its investment portfolio:

- The preservation of the amount invested;
- Ensuring there is sufficient liquidity to meet all reasonably anticipated cash flow requirements;
- Ensuring there is sufficient diversification of investments to reduce risk (i.e. not putting all ones eggs in the one basket); and
- Achieving the maximum rate of return within Council's risk tolerance.

### **Legislative Requirements**

All investments are to comply with the following:

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- Local Government Act 1993;
- Local Government (General) Regulation 2005;
- Ministerial Investment Order;
- Revised Ministerial Investment Order;
- Local Government Code of Accounting Practice and Financial Reporting;
- Australian Accounting Standards; and
- Division of Local Government Circulars.

### **Delegation of Authority**

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may in turn delegate the day-to-day management of Council's Investment to the Responsible Accounting Officer or senior staff, subject to regular reviews.

Officers' delegated authority to manage Council's investments shall be recorded and officers will be required to acknowledge they have received a copy of this policy and understand their obligations in this role.

### **Prudent Person Standard**

The investment will be managed with the care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolio to safeguard the portfolio in accordance with the spirit of this Investment Policy, and not for speculative purposes.

### **Ethics and Conflicts of Interest**

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

Independent advisors (if appointed) are also required to declare that they have no actual or perceived conflicts of interest.

### **Approved Investments**

All investments must be denominated in Australian Dollars. Authorised Investments are limited to those allowed by the Ministerial Investment Order and include:

- Commonwealth/State/Territory Government securities eg bonds;
- Interest bearing deposits/senior securities issued by an eligible Authorised Deposit Taking Institution (ADI);
- Bills of exchange, (< 200 days duration) guaranteed by an ADI;
- Debentures issued by NSW Local Government;
- Deposits with NSW Treasury &/or Investments in T-Corp's Hour Glass Facility; and
- Investments grandfathered under the Ministerial Investment Order.

### **Prohibited Investments**

In accordance with the Ministerial Investment Order, this investment policy prohibits any investment carried out for speculative purposes including, but not limited to:

- Derivative based instruments;

- 
- Principal only investments or securities that provide potentially nil or negative cash flow; and
  - Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind.

This policy also prohibits the use of leveraging (borrowing to invest) of an investment.

### **Risk Management Guidelines**

Investments obtained are to be considered in light of the following key criteria:

- Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value (considering the time value of money);
- Diversification – setting limits to the amounts invested with a particular financial institution or government authority to reduce credit risk;
- Credit risk – the risk that a council has invested in fails to pay the interest and or repay the principal of an investment.
- Market Risk – the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices;
- Liquidity Risk – the risk an investor is unable to redeem the investment at a fair price within a timely period; and
- Maturity Risk – the risk relating to the length of term to maturity of the investment. The longer the term, the greater the length of exposure to risk and volatilities.

### **Investment Advisor**

Council may choose to appoint an investment advisor to assist Council in investing available funds.

The Council's investment advisor (if appointed) must be approved by Council and licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in relation to investment products being recommended and is free to choose the most appropriate product within the terms and conditions of the investment policy.

The independent advisor is required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to the investments they are recommending or reviewing, including that they are not receiving any commissions or other benefits in relation to the investments being recommended or reviewed.

### **Measurement**

As Council continues to hold grandfathered investments such as Capital Protected Notes (CPNs), the investment returns for the portfolio is to be regularly reviewed by an independent financial advisor by assessing the market value of the portfolio. The market value is to be assessed at least yearly to coincide with annual reporting requirements.

### **Benchmarking**

Performance benchmarks need to be established and should be based on a sound and consistent methodology. Council has chosen the 3 month Bank Bill Swap Reference Rate (BBSW) as the appropriate benchmark to measure its investment performance, and reports on the performance of its investments portfolio on a monthly basis.

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### **Reporting and Reviewing of Investments**

Documentary evidence must be held for each investment and details thereof maintained in an investment Register.

The documentary evidence must provide Council legal title to the investment.

Certificates must be obtained from the financial institutions confirming the amounts of investments held on the Council's behalf as at 30 June each year and reconciled to the Investment Register.

All investments are to be appropriately recorded in Council's financial records and reconciled at least on a monthly basis.

A monthly report will be provided to Council. The report will detail the investment portfolio in terms of performance, percentage exposure of total portfolio, maturity date and changes in market value.

This Investment Policy will be reviewed at least once a year or as required in the event of legislative changes. The Investment Policy may also be changed as a result of other amendments that are to the advantage of that Council and in the spirit of this policy. Any amendment to the Investment Policy must be by way of Council resolution.

### **Responsibilities**

Council's Finance Branch is responsible for the day to day application of the policy

### **Associated Documents**

N/A

### **Getting Help**

The staff member/s who can assist with enquiries about the policy

Position: Chief Financial Officer

Department: Finance

### **Version Control**

Review Date: September 2014


Staff Member Responsible for Review: Chief Financial Officer

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Investment Policy	Endorsed	307	16 April 2009
Investment Policy	Endorsed	465	24 June 2010
Investment Policy	Endorsed	406	16 June 2011
Investment Policy	Endorsed	105/1314	19 September 2013

**R Sullivan/Schmidt**  
**The motion was carried**

### **Item 24 Strategic Policy –Internally Restricted Assets Policy**

**106/1314 RESOLVED** that Council endorses the following Internally Restricted Assets Policy to be included in the Strategic Policy Register.

	<b>Internally Restricted Assets Policy</b>
	<b>Strategic</b>

**Purpose**

Council’s Internally Restricted Assets Policy details the type and level of internal restrictions that Council should set aside out of available funds to meet cash outgoings that Council will need to fund in future years.

**Objectives of the Policy**

The objective of this policy is to detail what items Council should be setting aside funding for and the desired level of funding to be set aside. The policy also details the rational for the creation of each of Council’s internally restricted assets.

**Policy Scope**

The policy applies to all internally restricted assets held by Council. Externally restricted assets such as funds held for Council’s water and sewer fund, as well as unspent tied grant funds are managed per the respective grant agreements and DLG guidelines and do not fall under the scope of this policy.

**Background**

Council in the interest of good financial management will restrict funds from time-to-time to either meet external statutory obligations (such as restrictions relating to grant funding or developer contributions), or in order to set aside funding for future commitments.

Restricted assets that are internally developed by Council to cover commitments or obligations that are expected to arise in the future and where it is prudent for Council to hold cash in restrictions to cover these obligations (despite there being no legislative reason to do so) are known as internally restricted assets.

**Definitions**

The following terms used within this policy are defined below:

- Restricted Asset – Restricted assets refers to funds that are kept restricted (i.e. can not be used for general purposes) as they are either subject to some form of external legislative or contractual obligation, or are kept for the purpose of covering Council commitments that are expected to arise in the future
- Internally Restricted Asset – Restricted assets that are internally developed by Council to cover commitments/obligations that are expected to arise in the future and where it is prudent for Council to hold cash in restrictions to cover these obligations
- Externally Restricted Asset - Restricted assets that relate to funds that are subject to external legislative or contractual obligations

**Policy Statement**

Council shall set aside in its accounts internally restricted funds for the following items:



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- **ELE Reserve** – Council shall hold as an internally restricted asset funds to cover 30% of Council's accrued employee provisions. Council's employee provisions include liabilities for annual leave, and long service leave which are unpaid as at Council's annual reporting date.
- **Quarry Rehabilitation Reserve** – Council shall hold as an internally restricted asset funds to cover 20% of Council's liability to rehabilitate gravel pits during and after their operational life cycle. The total rehabilitation and remediation liability is sourced from Council's annual financial statements.
- **Plant Fund Reserve** – Council shall hold as an internally restricted asset the balance of Council's accumulated cash surplus relating to Council's plant fund. The amount to be restricted is the accumulated cash surplus from the fund. Plant funds are used by many Councils in order to ensure that plant charge outs are recouping the full cost of the fleet business, and in order to set aside funds for major capital purchases. These funds set aside are restricted for use only by the plant fund.
- **Capital Works Reserve** – Council shall hold as an internally restricted asset the balance of planned capital works unspent at the reporting date. These funds will be restricted for use in the completion of the revoted capital works, and a restriction has therefore been created to ensure that there is funding available to complete these works.

Council currently also holds as an internally restricted asset funding relating to bio solid provisions in Coolah and Dunedoo and an amount for work on Council's LEP. Other internally restricted assets can be set by Council as required.

Any funds removed from a restricted asset for another purpose, must be advertised for twenty eight (28) days to allow community comment.

### **Responsibilities**

Council's Finance Branch is responsible for the day to day application of the policy

### **Associated Documents**

N/A

### **Getting Help**

The staff member/s who can assist with enquiries about the policy

Position: Chief Financial Officer

Department: Finance

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Review Date:

Staff Member Responsible for Review: Chief Financial Officer

Policy Name	Action	Resolution No.	Date
Internally Restricted Assets Policy	Endorsed	166	14 December 2006
Internally Restricted Assets Policy	Endorsed	07	16 July 2009
Internally Restricted Assets Policy	Endorsed	106/1314	19 September 2013

**Clancy/Schmidt**


**The motion was carried**

**Item 25 Local Infrastructure Renewal Scheme Round 2 TCorp Assessment**

Received.

**Item 26 Strategic Policy – Disposal of Council Assets**

**107/1314 RESOLVED** that Council endorses the following Disposal of Council Assets Policy to be included in the Strategic Policy Register.

	<b>Disposal of Council Assets Policy</b>
	<b>Strategic</b>

**Purpose**

This policy is to acknowledge Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (Section 8 Local Government Act 1993).

**Objectives of the Policy**

The objectives of this policy are:

- To set out the principles, framework, responsibilities and processes for Council officers to account for and manage the disposal of Council assets;
- To identify, manage and mitigate the risks associated with the disposal of land and other assets;
- To ensure impartiality, transparency, accountability and the delivery of best value in the disposal of land and the disposal of other Council assets;
- Provide appropriate levels of discretion and flexibility in achieving desired outcomes recognising the highly complex nature of the land transactions, the wide variety of circumstances and methods of sale available.

**Policy Scope**

This policy includes "**Land**" all real property whether vacant or improved however it must be classified as operational land under section 25 of the Local Government Act 1993. Only operational land may be sold.

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In order to establish whether or not land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the Local Government Act.

**Other Assets** including furniture and fittings, office equipment (including electronic equipment), minor plant and tools.

### **Background**

This policy has been developed as Section 377 (l) (h) of the Local Government Act 1993 requires a specific resolution of Council to dispose of land. The decision cannot be delegated.

The resolution is to include reference (often contained within a confidential report) to the terms of the sale and the agreed price, or range for negotiations. The sale cannot proceed outside of such parameters (without a further Resolution).

The resolution should also provide for the General Manager to be issued with delegated authority to negotiate any outstanding, usually minor conditions, and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

A copy of the report and resolution is to be provided to Council's legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

No formal actions may be commenced in the disposal of land until a report has been considered by Council and an appropriate resolution adopted.

Informal pre-sale discussions/negotiations must always be qualified "subject to resolution of Council" if there is no current resolution of Council to dispose of land.

Contracts for the sale of land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the delegated approval of Council or the General Manager as set out above. Any special conditions that materially alter the purchase price or settlement period require approval of Council.

Council's solicitor is responsible to ensure Contracts for the Sale of Land satisfy statutory disclosure and warranty obligations (Conveyancing (Sale of Land) Regulation 2005)

### **Definitions**

The following terms used within this policy are defined below:

- Best Value for Money – achieving the "best value" may include financial, social and environmental benefits.
- Transparency – processes are open to scrutiny, provide full information and the reasons behind the decisions.
- Accountability – demonstrate the best use of the public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality – address perceived or actual conflicts of interests, ensuring fairness and equity.

- 
- Land – includes all real property whether vacant or improved. Land may not be sold unless it is classified as “operational land “ under section 25 of the Local Government Act 1993.
  - Other Assets – includes furniture and fittings, office equipment (including electronics).

## **Policy Statement**

### **1.1 Valuation Processes for Land**

At least one formal market valuation undertaken by a valuer registered to value such land/property is required to be commissioned prior to all land/property disposals.

Two valuations are required when the value of the land/property is likely to exceed \$50,000 and the process of disposal is not competitive (as defined below). The requirement for valuation(s) may be varied where, in the informed opinion of the General Manager such action is impractical. Common examples would include (but not be limited to), sales of small parts of land and road widening strips.

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different, and more detailed justification of the price.

An updated valuation, or valuation advice is required after 12 months of the date of the original valuation if the land is not sold, or at any time there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- The purpose of the valuation being “disposal”;
- The basis of valuation being “market value highest and best use”, unless an alternative basis is considered more appropriate in the circumstances;
- The agreed fee, update fee and completion date;
- That the valuation is marked confidential;
- That the valuation includes market commentary, details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of disposal and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

### **1.2 Method of Disposal of Land**

An open competitive process of disposal is required choosing one of the following methods:

- 
- Expression of interest – usually used for unusual properties capable of a variety of development, difficult to determine a market value;
  - Tender – least common and used predominantly in high value, limited market situations;
  - Auction – the most open and public method, favoured by government, but reliant on high levels of competition. Often achieves a quick sale. Can fail in a poor market;
  - Private Treaty – most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process).

The General Manager may approve a non-competitive process of disposal such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- Obtaining two valuations where the land may be valued at more than \$50,000.
- Pre-establishing a range for negotiation, having regard to the two valuations
- Managing conflicts of interest with declarations of no personal or financial associations

Establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed *The body of the policy (main text)*.

### **1.3 Disposal of Land below Market Value**

Land may be disposed of to achieve strategic outcomes. In such situations, “best value” may comprise financial, environmental or social elements, with the price falling below the “market value” range.

The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

### **1.4 Sale of Land to Adjoining Owners**

In circumstances where land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widenings, closed laneways, etc) and the only potential purchasers are adjoining owners; the land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the land, the land will be equally offered to the remaining adjoining owners.

The recommended method of determining the sale price is the “before and after” method as related to the purchaser’s land. For small portions of land, the “piecemeal” (\$ rate per square metre) method may be more appropriate.

An essential condition of sale is that the purchaser is required to consolidate the subject land with their existing holding at no cost to Council.

Where the purchase price is deemed by Council to be a “nominal consideration”, Council may impose a condition to recover all costs associated with the sale from the purchaser.

### **1.5 Sale of Roads – Roads Act 1993**

No road can be sold until it is formally closed in accordance with the provisions of the Roads Act 1993.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When Council initiates the road closure (in order to realise the value of surplus land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the land upon closure in accordance with the terms of sale.

In accordance with Section 43 of the Roads Act 1993, funds from the sale of roads are required to be set aside for acquiring land for public roads or for carrying out work on public roads.

### **1.6 Confidentiality**

In the majority of disposals of land, the information contained in reports to council to sell land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council’s ability to obtain the maximum return on the property.

Therefore, it is acknowledged that reports to Council on the disposal of land will be generally deemed confidential under Section 10A(2)(c) of the Local Government Act 1993. This confidentiality may be lifted upon settlement, if considered to be in the public interest

### **1.7 Delegated Authority - Disposal of Other Assets**

A resolution of Council should provide for the General Manager to be provided with delegated authority to determine whether the sale or disposal of assets (other than land) requires valuations to be undertaken of the various items for disposal and to determine whether disposal will be by way of expression of interest, tender or auction process.

### **1.8 Valuation Processes for Disposal of ‘Other Assets’**

A valuation of ‘other assets’ for disposal will only be obtained if in the opinion of the General Manager the value of each asset to be sold is not of a minor nature.

### **1.9 Method of Disposal of Other Assets**

An open competitive process of disposal is required choosing one of the following methods:

- Expression of interest;
- Tender;
- Auction.



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### **1.10 Departure from change this Policy**

Any provision of this policy may be varied to meet the needs of a particular matter, by resolution of Council. The reasons for change will be clearly articulated within the report submitted for consideration by Council in adopting such resolution and will only apply to such matter.

### **Responsibilities**

The staff member responsible for the day to day application of this policy is the Manager Finance.

### **Associated Documents**

Nil

### **Getting Help**

Should you have any further questions or queries please contact Manager Finance.

### **Version Control**

Review Date:


Staff Member Responsible for Review: Manager Finance

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Disposal of Council Assets Policy	Endorsed	27	21 August 2008
Disposal of Council Assets Policy	Endorsed	107/1314	19 September 2013

**R Sullivan/Capel  
The motion was carried**

### **Item 27 Strategic Policy – Rating Policy**

**108/1314 RESOLVED** that Council endorses the following Rating Policy to be included in the Strategic Policy Register.

	<b>Rating Policy</b>
	<b>Strategic</b>

### **Purpose**

The purpose of this policy is to ensure effective controls, policies and procedures are in place with respect to Council's rating function, collection of overdue rates, and the granting of pensioner concessions.

### **Objectives of the Policy**

The objectives of this policy are:

- To ensure all statutory requirements of the Local Government Act are adhered to;
- To ensure collection of rates, charges and sundry debtors is carried out in a transparent manner and complies with the Local Government Act and other relevant state and federal acts;

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- To ensure that all applications for the statutory pensioner concession are managed equitably and in compliance with current legislation;
- To ensure that ratepayers experiencing genuine financial difficulties are treated sensitively on a case by case basis and ratepayers are assisted in meeting their rate commitments by providing mutually agreeable alternative repayment plans;
- To ensure that Council minimizes the amount of money owed in respect of overdue rates and charges;

### **Policy Scope**

This policy applies to Council's processing of rates and annual charges, debt collection for rates and annual charges, approval of pensioner rebates, and all other rates and annual charges related issues.

### **Background**

Roughly 30% of Council's funding is derived from rates and annual charges, and this revenue is used in the provision of a variety of services to the residents of the shire. It is important that Council ensures that all statutory requirements of the Local Government Act are adhered to in Council's making and levying of rates, and that the collection of rates and annual charges is both effective, transparent, and fair.

### **Definitions**

N/A

### **Policy Statement**

#### **6.1 Making and Levying of Rates and Charges**

Council levies Rates and Charges in accordance with the provisions of the Local Government Act 1993 (hereafter the Act), and Council must make and levy an ordinary rate for each year on all rateable land in its area (s.494 of the Act).

Council's current rating structure is determined in accordance with Section 497 of the Act being a rate based on land value, together with a Base Amount.

Council issues its annual rates notice to all rateable properties in the Council's area in July of each year for the financial year. Supplementary rate levies may also be issued during the year.

The rate notice includes all ordinary rates, special rates and annual charges (excluding sewer access charges and water and sewer consumption charges) levied on the property. Rates and annual charges may be paid by a single instalment or by quarterly instalments. If the payment is made by quarterly instalments, the instalments are payable as follows:

<b>Instalment</b>	<b>Due Date</b>
1	31 August
2	30 November
3	28 February
4	31 May

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If the payment is made by a single instalment, the instalment is payable by the 31 August of each year. Council issues instalment notices to those ratepayers who elect to pay by instalments and such notices are issued at least one month prior to the due date for the instalment. Where the Council levies rates and annual charges after an instalment was due, the amount payable is apportioned equally across the remaining instalments.

Council also issues a separate water notice which includes sewer access charges and water and sewer consumption charges. Water notices are payable as follows:

Water Notice	Due Date
1	31 October
2	31 January
3	30 April
4	31 July

**6.2 Payment of Rates**

The collection of rates and charges is to be carried out in a transparent manner, and in compliance with the Local Government Act.

**6.2.1 Recovery Action**

Recovery action will commence when rates and/or charges are not paid by the due date for each quarterly instalment unless arrangements have been entered into (in writing) to make periodical payments under section 564 of the Local Government Act.

Recovery action will commence if other debts (*other than amounts due from Government Departments*) are not paid within thirty (30) days unless arrangements have been entered into.

**6.2.2 Agreements for Periodical Payments**

Ratepayers who are unable to pay rates and charges and/or water usage charges by the due date, either because of reasons beyond their control or because payment would cause hardship, may apply to enter into an agreement with Council to make periodical payments [ henceforth called the 'Agreement']. The payments made under this said agreement should adequately repay the rates and charges levy.

In order for such an agreement to be considered a 'Payment Arrangement' form is to be completed subject to mutual agreement of payment amounts. The ratepayer is to specify the dates and the amounts that are to be paid and an appropriate contact number and address must be supplied to Council. Verbal agreements shall not provide a reprieve from the debt recovery process.

If a ratepayer fails to meet the terms of an agreement, the agreement shall be terminated and the full amount of the outstanding rates and charges and/or water usage and accrued interest shall be due and payable immediately. Recovery action shall be taken immediately for recovery of the amount due and payable.

If a sundry debtor fails to meet the terms of an agreement, the agreement shall be terminated and the full amount of the outstanding sundry debt shall be due and payable immediately. Recovery action shall be taken immediately for recovery of the amount due and payable.

### **6.2.3 Writing off of Accrued Interest**

Applications for writing off accrued interest under the hardship provisions of the Local Government Act 1993 shall be determined on the merits of each individual case, on the basis of whether or not the hardship criteria have been satisfied by the applicant and a proper opinion can be formed.

All applications for writing off accrued interest must be made in writing.

### **6.2.4 Writing Off by Resolution**

Rates and/or Charges (including accrued interest) or other debts can only be written off by resolution of Council.

### **6.2.5 Sale of Land for Overdue Rates**

Should all avenues of recovery action be unsuccessful, Council is able, under Section 713 of the Local Government Act 1993 as amended, to sell land for overdue rates and charges where the rates and charges remain unpaid for a period of more than five years.

The Local Government Act 1993 as amended, and the associated Regulations detail the procedures to be followed should Council choose to follow this course of action.

## **6.3 Pensioner Concessions**

Eligible pensioners are entitled to a statutory pensioner concession provided for under Section 575 of the Local Government Act, 1993.

### **6.3.1 Eligibility for Pensioner Concessions**

#### **6.3.1.1 Eligible Person**

An eligible person must be an eligible pensioner. Eligible pensioners are those who receive any of the following:

- A pension, benefit, or allowance under Chapter 2 of the Social Security Act 1991 (Cth), and hold a pensioner concession card issued by or on behalf of the Commonwealth Government;
- A service pension under part III of the Veterans' Entitlements Act 1986 (Cth) and hold a pensioner concession card issued by or on behalf of the Commonwealth Government;
- A pension from the Commonwealth Department of Veterans' Affairs, who are also eligible for a pensioner concession card from Centerlink;
- A general rate pension adjusted for extreme disablement under section 22(4) of the Veterans' Entitlements Act 1986 (Cth), or a special rate of pension under section 24 of that Act.

#### **6.3.1.2 Other Conditions of Eligibility for Concession include**

The pensioner concessions are granted where a pensioner/owner or joint pensioner/owners:

- Occupy a dwelling on the property, for which a concession is sought, as their sole or principal place of abode. Rebates are not granted for vacant or unoccupied land;

- Do not reside on the land subject to the rates in respect of which a rebate is claimed during periods of hospitalisation or convalescence (subject to eligibility reviews);
- Where an application is received for a rebate of rates payable on land held in joint ownership, the applicant pensioners are granted a rebate in accordance with the above and in accordance with the proportion of their interest in the premises;
- A rebate is granted to an eligible pensioner where the land is owned by the Estate of a deceased person and is occupied by the eligible pensioner, who is liable for the payment of rates. This is subject to the granting of probate and the production of documentary evidence of a life tenancy agreement by the eligible pensioner.

#### **6.3.1.3 Liable for the Payment of the Rates**

The eligible person must be solely liable, or a person jointly liable with one or more other persons for the rates and/or charges levied on that property.

#### **6.3.2 Application for Concession**

##### **6.3.2.1 Application Form**

The eligible person must fully complete the Pensioner Concession Application Form. Applicants must sign the customer consent, which allows Council to confirm with the appropriate Government agencies, the accuracy of the details provided by the applicant. Applicants who fail to sign this section will not be granted the rebate.

##### **6.3.2.2 Evidence**

Evidence in the form of the Pensioner Concession Card provided by Centerlink must be produced as evidence when applying for the concession. A rebate will not be granted without providing this evidence.

##### **6.3.2.3 Confirmation**

Council will from time to time, and at least annually, use the electronic Pensioner Confirmation Service provided by Centerlink to confirm eligibility.

#### **6.3.3 Applying the Concession**

##### **6.3.3.1 Date of Grant**

###### **After first day of current financial year**

If a person becomes an eligible pensioner after the first day of the current financial year, the amounts of the rebate will be proportioned to the number of full quarters remaining after the day on which the person becomes an eligible pensioner.

###### **Before the first day of current year.**

If a person had become an eligible pensioner prior to the start of the financial year they will be eligible only for the full annual rebate for the current financial year. A pensioner concession rebate will not be back dated beyond the start of the current financial year.

##### **6.3.3.2 Value of Rebate**

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The amounts of the concession available on an annual basis (current as the 1 July 2013) are:

- 1 Up to \$250.00 on all ordinary rates and domestic waste management service charges, and
- 2 Up to \$87.50 on the water supply service charge: and
- 3 Up to \$87.50 on the Sewer Access Charges.

### **6.3.3.3 Payment Options**

Under Council's policy, eligible pensioners have three payment options:

- Pay the full amount of rates as set out on the Rates Notice by the due date;
- Pay the full amount of the rates as set out on the Rates Notice by four instalments. Details of this option and amounts payable each quarter and the due dates are included on the Rates Notice.
- Special payment arrangements can be made with Council whereby rates are paid over an extended period at an agreed amount. For example, a pensioner may request to pay their rates at \$50.00 per month, ensuring that the agreed amount paid will satisfy the total amount owing for rates.

### **Responsibilities**

Council's Finance Branch is responsible for the day to day application of the policy

### **Associated Documents**

N/A

### **Getting Help**

The staff member who can assist with enquiries about the policy

Position: Senior Rates Officer

Department: Finance

### **Version Control**

Review Date: 30/09/2015

Staff Member Responsible for Review: Senior Rates Officer

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Rating Policy	Endorsed	433	18/06/2009
Rating Policy	Endorsed	108/1314	19 September 2013

**Schmidt/Clancy**

**The motion was carried**

### **Item 28 External Audit Tender**

**109/1314 RESOLVED** that Council appoint Forsyths Business Services Pty Ltd to provide external audit services to Warrumbungle Shire Council for a six (6) year term for the financial years 2013/14 to 2018/19.

**Schmidt/Capel**

**The motion was carried**



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**12.59pm**

**110/1314 RESOLVED** that standing orders be suspended to break for lunch.

**R Sullivan/Capel  
The motion was carried**

**1.51pm**

**111/1314 RESOLVED** that standing orders be resumed.

**Capel/C Sullivan  
The motion was carried**

**Item 29 Request for Change of Category-Rates Assessment No 1608**

**112/1314 RESOLVED** that Council approve the change of category for Property Assessment No 1608 from Business to Residential.


**Clancy/Capel  
The motion was carried**

**Item 30 Rates Report for Month Ending 31 August 2013**

Received.

**Item 31 Strategic Policy – Media Policy Councillors**

**113/1314 RESOLVED** that Council endorses the following Media Policy - Councillors to replace the current policy and to be included in the Strategic Policy Register.

	<b>Media Policy - Councillors</b>
	<b>Strategic</b>

**1. Purpose**

To ensure all Councillors are aware of their responsibilities to Council in supporting communications with the Shire's communities, businesses and residents. The policy promotes a positive and professional public image to the community, strengthening community engagement, and manages the risk of negative community perceptions or misunderstandings.

**2. Objectives of the Policy**

This policy aims to ensure Council improves communications with the community whilst projecting a corporate image, and ensuring the accuracy of public comments. The policy will also manage the risk of a public liability or professional indemnity claim arising from comments made by a Councillor to the media, or any claims being made against Council or an individual Councillor.

**3. Policy Scope**

The policy applies to Councillors of Warrumbungle Shire Council.  
The policy applies to any situations when dealing with Media.

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### 4. Background

Council's current Media Policy – Councillors was endorsed on 26 June 2008 (Resolution 407).

### 5. Definitions

Media is defined as newspapers, radio, internet, social media and any other public forum.

### 6. Policy Statement

- No Councillor (except the Mayor) is authorised to represent or speak on behalf of Council in any public comments, statements or press releases to the media.
- Councillors may speak to the media clearly indicating that they are portraying their own personal point of view and are not speaking on behalf of Council.
- A Councillor may be nominated by the General Manager or Mayor to speak on behalf of Council on a matter they have knowledge or expertise.

#### 6.1 Disciplinary Action

Breach of this policy may constitute a breach of the Model Code of Conduct for Local Councils in NSW.

### 7. Responsibilities

The Manager Communication and IT is responsible for this policy

### 8. Associated Documents

Model Code of Conduct for Local Councils

### 9. Getting Help

The staff member/s who can assist with enquiries about the policy  
Position: Manager Communications and IT

### 10. Version Control

Review Date: September 2017 or as per Council request.

Staff Member Responsible for Review: The Manager Communications and IT

Policy Name	Action	Resolution No.	Date
Media Policy – Councillors	Endorsed	406	26 June 2008
Media Policy – Councillors	Endorsed	113/1314	19 September 2013

**Schmidt/Capel**  
**The motion was carried**

### Item 32 IT – Managed Services for User Support and Infrastructure

**114/1314 RESOLVED** that Council contracts for Managed Support Program – User and Desktop to Tamworth Regional Council from 1 October 2013 to June 2014 at \$9,800/month.

**Schmidt/R Sullivan**  
**The motion was carried**

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**Item 33 Strategic Policy – Itinerant Markets**

**115/1314 RESOLVED** that Council deletes the Strategic Policy - Itinerant Traders 1.27 from the Policy Register.

**R Sullivan/Andrews  
The motion was carried**

**Item 34 StateWide Risk Management Excellence Award 2013**  
Received.

**Item 35 Renewal of Coonabarabran Library Building Lease**

**116/1314 A motion moved by Councillors Clancy seconded by Councillor Schmidt** that Council approves the General Manager and Mayor to affix Council's seal, sign and execute a Lease Agreement with Canray Holdings Pty Ltd for Option 3 (a 5 x 5 year lease) for \$4,150 per month to be indexed by CPI annually.


**The motion was put and LOST**

**117/1314 RESOLVED** that Council approves the General Manager and Mayor to negotiate a Lease Agreement and affix Council's seal, sign and execute a Lease Agreement with Canray Holdings Pty Ltd for Option 2.

**R Sullivan/Schmidt  
The motion was carried**

**Item 36 Strategic Policy – Cemetery Management and Burial Policy**

**118/1314 RESOLVED** that Council endorses the following Cemetery Management and Burial Policy to replace the two existing policies and to be included in the Strategic Policy Register.

	<b>Cemetery Management and Burial Policy</b>
	<b>Strategic</b>

**1. Purpose**

The purpose of this policy is to outline the management of cemeteries within the Warrumbungle Shire Local Government area and Council's Burial Policy.

**2. Objectives of the Policy**

The objective of this policy is to ensure that the cemeteries under Council's care are maintained and managed professionally and with consideration for the sensitive nature of their purpose.

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### 3. Policy Scope

- a. This Policy applies to all cemeteries memorial gardens and columbarium's administered, operated and maintained by Council in the present and future.

This policy applies to the following cemeteries within the Warrumbungle Shire Council local government area;

Baradine Cemetery  
Binnaway Cemetery  
Bomera Cemetery\*  
Bugaldie Cemetery  
Cobborah Cemetery  
Coolah Cemetery  
Denison Town Cemetery\*  
Dunedoo Cemetery  
Leadville Cemetery  
Mendooran Cemetery  
Native Grove Cemetery Coonabarabran  
Old Coonabarabran Cemetery\*\*  
Turee Vale Cemetery\*  
Uarbry Cemetery

\* *Historic Cemetery closed to burials*

\*\* *Closed to new burial bookings*

- b. This Policy does not affect the operation of any Regulations under the Public Health Act 2012, part 8, Disposal of Bodies, relating to cemeteries and crematoriums.

### 4. Background

This policy will take over from the two previous policies regarding Public Cemetery (endorsed by Council 21 August 2008, resolution 57) and Burial Policy (a revised policy was endorsed by Council 15 April 2010, resolution 360)

The policy has been developed due to updated legislation and the need for a more extensive policy to cover all of Councils varied cemeteries across the shire.

### 5. Definitions

**Applicant** - the person making an application

- for a burial or memorial right
- for a work permit or other Council consent
- for burial or cremation

**Appropriate fee** - a fee fixed by Council

**Cemetery or cemeteries** - means an area containing one or more burial places

**burial place** - a grave site, vault site, crypt site, memorial site or other place for the disposition or commemoration of the remains of the dead, whether cremated or not.

**Burial right** - exclusive right of entitlement to a burial place granted by Council to a person or persons.

**Council** - the Warrumbungle Shire Council

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**Grantee** - the person to whom a right is granted.

**Monument** - any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial right.

**Monument mason** - is a tradesman mason or person possessing the skills to carry out monument masonry work.

**Pre-need burial right** - means a burial right granted prior to need.

**Procedure Manual** - Council's "Cemetery Management and Burial Procedures" plan of management for public cemeteries.

**Reservations** - a pre-need burial right.

**Register** - the Council's formal repository of data containing all the required details of a burial, cremation, memorial site, inurnment right or burial right.

**The Policy** - this Policy

## **6. Policy Statement**

### **6.1 Management of Cemeteries**

Planning, conduct and maintenance of cemeteries

Council will make such provisions as it considers necessary for the following:

- a) the setting aside of sections for different types and classes of burials;
- b) the establishment of standards of construction and design of for monuments and structures;
- c) the size, multiple use and location of burial places;
- d) interments;
- e) the erection or installation of structures and the making of inscriptions;
- f) the carrying out of work by monument masons;
- g) the qualifications required by, and the security deposits to be lodged by, monument mason;
- h) the removal, replacement and maintenance of structures;
- i) the improvement and maintenance of cemeteries;
- j) the making of arrangements for the care of burial places on an annual or other basis;
- k) the supply of goods and services incidental to the conduct of burials and other matters relating to cemeteries;
- l) the conduct of religious or other ceremonies of burial, cremation, disposition or commemoration;

### **6.2 Refusal to grant exclusive rights of memorials**

The Council may refuse to grant an exclusive right of burial to any person if, in the opinion of Council, the grant would create a monopoly or encourage dealings in such rights as a business.

### **6.3 Register of burial places and cremation**

6.3.1 A register of burial, as required by the Regulations of the Public Health Act 2010, must be kept in respect of all burial places

6.3.2 A register of cremation, as required by the Regulations of the Public Health Act 2010, must be kept in respect of each cremation.

6.3.3 A register of pre-need burial rights.

- 
- 6.3.4 Each register, which may be kept in written, printed or electronic form, must contain sufficient information to allow for simple cross-referencing of entries by-
- (a) the name, age and last address of the person whose body or remains have been buried,
  - (b) the date of the person's death,
  - (c) the date of the burial,
  - (d) the section and allotment where the burial has been made,
  - (e) the name of the person (if any) who continues to hold any right of burial in that allotment,
  - (f) the name of the funeral director who transported the body to the cemetery,
  - (g) the fees paid to the cemetery authority for the burial.
- 6.3.5 Each register entry must contain the name and address of the owner of the burial right.
- 6.3.6 Each burial or cremation must be recorded in its respective register immediately after the service.
- 6.3.7 Registers may be amended to remove or correct inaccuracies.
- 6.3.8 The Council must, on application made by any person, make available to the person a copy of any entry made in the burial or cremation registers.
- Such applications shall be made on an approved form
  - each form shall be limited to a single register entry
  - A fee, as approved by the Council from time to time, may be charged for each application.
- 6.3.9 The registers will be used in any proceedings requiring evidence of the identity of the holder of an exclusive right that has been granted in respect of any burial or memorial site.

#### **6.4 Certificates of exclusive right of burial**

- 6.4.1 The Council will issue to the owner of an exclusive right of burial certificate, clearly showing
- the owners name and address
  - the amount paid
  - the date of issue
  - A description of the physical location of the grave
  - the terms and conditions under which the certificate is issued.
- 6.4.2 The application for a certificate must be made on a form approved by Council.
- 6.4.3 Any fees relating to the purchase and issue of the certificate must be paid at the time of application.

#### **6.5 Reservations and Purchases of Burial Lots and Niches**

Plots are to be purchased and paid for in full at the fee prescribed in Council's Operational Plan and Delivery Program (2013/14-2016/17) at the time the purchase is made. Council is under no obligation to buy back unwanted pre-purchased lots, however Council's adopted fees and charges may make provision for this to occur.

Niches may be purchased at the fee prescribed by Council's Operational Plan and Delivery Program (2013/14-2016/17) at the time of purchase. The purchase of a



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niche is limited to only those available at the time. Council is under no obligation to buy back unwanted pre-purchased niches, however Council's adopted fees and charges may make provision for this to occur.

Reservation applications must be made in writing to Council stating the reason for the reservation. Council is authorised to approve or deny applications based upon insufficient reasons or lack of prepared burial land or any other relevant Council policy.

Council resolved the following at a meeting held 21 May, 2009:

That Council adopts the following policy in all dealings relating to the reservation of grave sites in lawn cemeteries within Warrumbungle Shire effective immediately:

- (a) The right of burial reservation fee must be paid at the time of acquisition of the reservation, and
- (b) Burial rights (reservations) at all lawn cemeteries will only occur when a funeral is to take place, at this time a second adjacent site may be booked, i.e., a maximum of two (2) sites can be reserved with one to be used immediately. In the case of the burial of a child (under 18) two (2) sites immediately adjacent to the deceased child may be reserved, and
- (c) Double depth grave sites are to be encouraged by Council through appropriate concessional rates for the second internment within a grave site in Council's fees and charges structure.

### **6.6 Hours of Burial, Cremation and Exhumation**

- 6.5.1 Burials, cremations and exhumations shall take place only during the hours approved by Council as set out in Council's Procedure Manual

### **6.7 Order for burials**

- 6.7.1 Burials are not to take place unless a Burial Order has been issued by Council.
- 6.7.2 The issue of a burial order shall be in accordance with Council's Procedure Manual
- 6.7.3 Burial shall be in accordance with the Regulations of the Public Health Act 2010 (NSW) and Council's Procedure Manual.

### **6.8 Exhumation**

- 6.8.1 Exhumations are not to take place unless
  - prior written consent has been obtained from the Director-General of the Department of Health (NSW); and
  - an Order for exhumation has been issued by Council
- 6.8.2 This clause does not apply if an exhumation has been ordered by a Court.

### **6.9 Miscellaneous**

- 6.9.1 A person must **not** do any of the following (within a cemetery)
  - (a) damage, deface, interfere with or alter burial places
  - (b) damage, deface, interfere with or alter monuments
  - (c) bury, inter or exhume any human remains, whether cremated or not

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- (d) enter or remain in a cemetery between sunset and sunrise
  - (e) cause or permit an animal that is under the person's control to enter or remain in a cemetery without proper supervision
  - (f) take part in any gathering, meeting or assembly, except for the purpose of religious, research, historical, educational or other ceremony of burial or commemoration; or
  - (g) Engage in trade or commerce or distribute any circulars, advertisements, paper drawn or photographic material.
  - (h) drive a vehicle at a speed of more than 5 kilometres per hour
  - (i) drive a vehicle or a vehicle and trailer having an unladen weight of more than 3 tonnes
  - (j) drive a vehicle through a cemetery for the purpose of travelling between places outside of the cemetery
  - (k) park a vehicle on any known burial place, verge or plantation, or in a manner that is likely to impede traffic
  - (l) teach, learn or practice driving a vehicle
  - (m) camp or reside on any land
  - (n) Possess or consume an alcoholic or intoxicating beverage or substance except from that directly associated with a funeral service.
  - (o) urinate or defecate
  - (p) bring into or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances
  - (q) remove any dead timber, logs, trees, flora, whether standing or fallen
  - (r) kill, capture or in any way interfere with any animal, bird, fish or other fauna, whether native or introduced
  - (s) Plant any tree, shrub, herbage or other plant without prior consent.  
Penalty: Offenders may be prosecuted under Common Law, Statute Law, The Heritage Act 1977, The Health Act (NSW) 1991, The Criminal Code
  - (t) Bury any domestic pets or animals within the parameter of the cemetery
- 6.9.2 Subsection (1.e) does not prevent a person from leading or walking a dog on a leash
- 6.9.3 Council's written consent is required to legally carry out any act that might otherwise give rise to an offence under this clause.

### **6.10 Requirements for graves**

- 6.10.1 The dimensions of a grave shall be a minimum of
  - 1000mm X 2400mm for adult graves
  - 900mm X 1500mm for children's graves;
- 6.10.2 The number of internments permitted in a grave shall be in strict accordance with the Regulations of the Public Health Act (NSW) 2010.

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- 6.10.3 For the purpose of part 6.10, clause 2:
- prior written consent has been obtained from the Director-General of the Department of Health (NSW) to vary the number of interments.
  - Where a coffin containing the deceased remains is interred in a grave, the upper surface of the coffin shall be at a depth not less than that required by the Regulations of the Public Health Act (NSW) 2010 which is 900mm.
- 6.10.4 This section does not affect the interment of cremated remains.

### **6.11 Above ground entombment**

All entombments above ground shall be considered on an individual basis upon a written application to Council.

### **6.12 Monuments and inscriptions**

- 6.12.1 A person shall not, in a cemetery:
- construct or install any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, railing or other structure, unless it is of
    - a material and design approved in writing by the Council; and
    - carried out to the standard of workmanship required by the Council
    - constructed in accordance with Australian Standards Association AS4425- "Monuments & Headstones" (1996)
- 6.12.2 Make any inscription or carry out any adornment, unless it is approved by the Council and made or carried out to the standard required by the Council.

### **6.13 Application for the approval**

Application for the approval of the Council in accordance with Part 6.12, clause 1 shall:

- 6.13.1 Be made to the Council in writing
- 6.13.2 Be accompanied by sketches, drawings and other particulars of the design that may be required by the Council; and
- 6.13.3 Where the application relates to an inscription, be accompanied by a copy of the proposed inscription

### **6.14 Trades and contractors**

No trade inscription shall be allowed on any masonry work unless approved, in writing, by the Council.

### **6.15 Monument masons**

- 6.15.1 A person shall not carry out any work as a monument mason within a cemetery unless with the written consent of the Council
- 6.15.2 The Council may issue approval to undertake work as a monument masons to any person it considers to be suitably qualified to undertake such work.
- Any person may apply to work as a monument mason in a cemetery; provide the application is in writing
- 6.15.3 The Council may suspend or cancel approval of any person by giving notice in writing

- 6.15.4 This clause shall not apply to employees of Council while engaged in their employment under the instructions of Council

**6.16 Removal of structures**

- 6.16.1 The Council may;
- remove, demolish, alter or require the removal, demolition or alteration of any structure or any adornment or
  - erase, correct, or require the erasure or correction of wording of any inscription that has been constructed, installed, made or carried out
    - without the written consent of the Council; or
    - otherwise than in accordance with an approval given by Council.
- 6.16.2 Where any work that has been approved is not completed within a reasonable time, the Council may remove or demolish such partially finished work as it deems necessary to preserve the fabric of the cemetery and public safety.

**6.17 Removal and replacement of structures on request**

- 6.17.1 Where notice to open a grave or vault for a lawful purpose is given in accordance with Council's Procedure Manual, the Council may arrange after
- the lodgement of proof of ownership
  - the payment of the scheduled fees and related costs)
- 6.17.2 the removal of any part of the structure to enable the safe opening of the grave or vault
- require the grantee or applicant to make good the repair of the structure affected within 14 days of the interment or service date.

**6.18 Maintenance of structures**

- 6.18.1 The ownership of monuments or other structures is deemed to be with the person or persons (or their heirs & successors) that caused the monument or structure to be constructed:
- the Council shall not be responsible for the upkeep, maintenance, repair etc. of any monument or structure.
  - The owner is responsible for the upkeep, maintenance and repair of the monument.
  - The Council may act to remove any structure which has become dilapidated or unsightly
  - the Council may remove any trees, shrubs or other vegetation from any cemetery where, in its opinion, it is in the interest of the cemetery to do so.

**6.19 Unsafe monuments**

Any monument identified as posing a safety risk is accorded a category ranking:

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CATEGORY	Criteria
1-	Monuments over 750mm in height that <ul style="list-style-type: none"><li>• are likely to collapse or fall over at any time</li><li>• Have significant sections or parts separating from the main monument, irrespective of cause (subsidence, deterioration etc.)</li></ul>
2-	Monument 750mm or less in height <ul style="list-style-type: none"><li>• are likely to collapse or fall over at any time</li><li>• Have significant sections or parts separating from the main monument, irrespective of cause (subsidence, deterioration etc.)</li></ul>
3-	Monuments that are affected by subsidence and are leaning by more than 10 degrees, but are otherwise deemed to be in sound condition.

6.19.1 Identification and reporting

any identification of unsafe monuments and consequent actions under this clause will be thoroughly documented and supported with photographs. All actions will be recorded against the respective cemetery register entry.

Subsidence

where subsidence is evident, Council will fill and compact the ground in the normal manner.

6.19.2 Repair of monument

1. Council will not repair monuments. Council will only act to ensure public and employee safety.

2. Category 1 monuments:

(a) The area surrounding the monument is to immediately be secured with barriers and danger signs.

(b) The Council will make reasonable efforts to contact the grantee of the burial right and instruct the grantee to take immediate steps to repair the monument.

(c) A public notice, clearly identifying the grave

- indicating Council's intent to make the monument safe unless the grantee acts within seven (7) days

- reserving Council's right to recover the costs relating to the handling of the monument from the grantee is to be placed in the local press.

(d) If contact has not been made with the grantee within seven days of the public notice, the Council will take steps to make the monument safe.

Note: Making the monument safe will (usually) consist of laying the headstone face down on the ground of the grave. This method, which preserves the inscription, is recommended by the National Trust.

6.19.3 Category 2

Same as Category 1, except that the notice and action period will be extended from seven (7) to 14 days.

6.19.4 Category 3

The Council will make reasonable efforts to contact the grantee to the site and instruct the grantee to take steps to repair the monument.

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A single public notice, clearly identifying the grave and indicating to the grantee that he or she should take steps to repair the monument will be placed in the local press.

Council will continue to monitor the site until such time as the monument is identified as Category 1 or Category 2.

## **6.20 Lawn Cemetery Sections**

- 6.20.1 The Council will ensure that it
- maintains, preserves, and repairs lawn cemetery graves
  - graves are not enclosed with any railing or kerbing
  - cut and plastic flowers provided by families are left at burial places in Lawn Cemeteries
  - cut and plastic flowers provided by families are placed in vases of a type approved by Council,
  - approved vases are plastic flower vases or urns and metal vases only. Glass jars and other vases will be removed at Council's absolute discretion.
  - due to the effects of UV rays, discoloured and worn plastic flowers will be removed from memorials at Council's absolute discretion.
  - no headstone, statue or other structure is erected or constructed over a grave in a lawn section
  - no tree, shrub or other plant is placed or planted on any grave in a lawn section other than by Council at its absolute discretion
- 6.20.2 The Council shall place over each grave in the Lawn Section, as soon as practicable after a burial or interment has taken place in that grave, and upon receipt of written instructions from the grantee, a memorial plaque, of a standard size and type as determined by the Council.
- 6.20.3 The grantee may apply to privately supply and fix a memorial plaque in Lawn Cemetery Sections provided that:
- an application in accordance with part 6.2 of this policy has been lodged with Council
  - all fees as scheduled by Council for the lodgement of the application have been paid
  - the design and type of plaque is consistent with the requirements determined by Council
  - Council has given its written approval
- 6.20.4 Council will not be liable for the repair, maintenance, upkeep or preservation of any plaque or item placed on a grave in a lawn cemetery under the provisions of part 6.17, clause 1 of this Policy.
- 6.20.5 That the provision of vertical burials in the lawn cemeteries be considered in accordance with cemetery practices.

## **5. Responsibilities**

The Manager Property and Risk will hold responsibility over this policy

## **6. Associated Documents**

Operational Plan and Delivery Program 2013/14 – 2016/17



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Warrumbungle Shire Council Cemetery Management and Burial Procedures  
Public Health Act NSW, 2010  
Public Health Regulations 2012 (Part 8 Disposal of bodies)  
Human Tissues Act NSW, 1983  
Coroners Act NSW, 2009  
Birth, Deaths and Marriages Act NSW, 1995  
The Heritage Act 1977  
Work Health and Safety Act, 2011

**7. Getting Help**

The staff member that can assist with enquiries about the policy  
Position: Manager Property and Risk

**8. Version Control**


Review Date: September 2017 or when relevant legislation changes.  
Staff Member Responsible for Review: Manager Property and Risk

Policy Name	Action	Resolution No.	Date
Cemetery Management and Burial Policy	Endorsed	118/1314	19 September 2013

**R Sullivan/Schmidt  
The motion was carried**

**Item 37 Strategic Policy – Temporary Grazing Permit**

**119/1314 RESOLVED** that Council endorses the following Temporary Grazing Permit to replace the current policy and to be included in the Strategic Policy Register.

	<b>Temporary Grazing Policy</b>
	<b>Strategic</b>

**1. Purpose**

The purpose of this policy is to outline the management of Temporary Grazing Permits within the Warrumbungle Shire Local Government area.

**2. Objectives of the Policy**

The objective of this policy is to ensure that the process of granting Temporary Grazing Permits under Council's care are maintained and managed professionally.

**3. Policy Scope**

This policy applies to Warrumbungle Shire Council Staff who engage in the assistance to issue Temporary Grazing Permits

**4. Background**

This policy will take over from the previous policies regarding Temporary Grazing Permits Policy (endorsed by Council 16 June 2005, resolution 235).

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The policy need to be updated as a requirement of legislation changes including; the need for a more extensive policy to cover Council and the assistance Council gives in issuing Temporary Grazing Permits across the shire.

## **5. Definitions**

LHPA - the Local Health and Pest Authority (LHPA) Coonabarabran, Dubbo and Mudgee-Merriwa LHPA for a district constituted under the Rural Land Protection Act;

Council – the Warrumbungle Shire Council;

Rural Lands Protection Act - the Rural Lands Protection Act 1998;

Local Government Act - the Local Government Act 1993;

Permit - a temporary grazing permit issued pursuant to Section 94 of the Rural Lands Protection Act;

RMS – Roads and Maritime Services;

MR – Main Road

## **6. Policy Statement**

### **6.1 Issue of Permits**

- a) The issue of a permit for a road is the responsibility of the Board.
- b) Council is not authorised to issue temporary grazing permits.
- c) A permit may only be issued by a Board:
  - i) For those parts of the road not normally used by road vehicles; and
  - ii) With the prior approval of Council.
- d) Council will not unreasonably refuse to grant approval of a permit. In particular, but without limiting the generality of this provision, Council will, subject to its obligations as a road authority, provide as much assistance as possible in times of drought or other natural difficulty or disaster.
- e) Council may charge a fee, pursuant to Section 608 of the Local Government Act 1993, for the granting of an approval, but that fee shall be related to the actual cost to the Council of processing an application for the approval.

### **6.2 Conditions of Council Agreement to Issue Permits**

- a) A permit is subject to the conditions prescribed in Section 94 of the Rural Lands Protection Act 1989.
- b) A permit shall be subject to such other conditions as the Board prescribes, including:
  - i) a requirement for the display of stock warning signs in accordance with Section 96 of the Rural Lands Protection Act 1998; and
  - ii) any conditions stipulated by the Council subject to its approval.
- c) Council will stipulate as a condition of its approval that the permit holder shall indemnify it from all claims arising as a result of the presence of the stock on the road reserve - the subject of the permit - meaning that Warrumbungle Shire Council must be shown as an Interested Party on the Public Liability Certificate of Currency (to the value of \$20,000,000)
- d) The provisions of Section 94 of the Rural Lands Protection Act 1998 are to be observed strictly.

### **6.3 General Conditions**

- a) The Board will notify, by way of confirmation to Council of the issue of every permit, the name and address of the permit holder, the duration of the permit and the conditions to which the permit is subject.

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- b) The Board will not issue a permit in cases where the Council objects to the issue of the permit.
- c) Council is not authorised to issue temporary grazing permits.
- d) Unless there is a drought declaration, approval for the issue of permits will not be given to any landowner unless the permit sought is to land adjacent to the applicant's property.
- e) That no fee is charged for the granting of approvals issued by Council.

The above conditions apply for applications to graze cattle only on local roads controlled by Council.

### **6.4 For approval to issue a permit on regional roads**

Road and Maritime Services (RMS) Conditions of Permits – Regional Roads

The RMS controlled regional roads will only allocate Grazing Permits if there is a drought declaration for the region and the following additional conditions for applications for grazing on these regional roads apply:

- a) "Stock Ahead" signs – whatever sign is deemed appropriate by the LHPA is to be displayed on both sides of the road formation on both approaches to the occupied area; monitoring of signs during the day is required to ensure that they give a timely warning and clear display to approaching traffic,
- b) Stock at all times are to be under constant surveillance,
- c) Stock are to be kept off the road formation at all times,
- d) A hot wire is to be run for the extent of occupation to minimise the effect of cattle on road traffic movements. The hot wire is to be located behind the existing guide post alignment,
- e) At night, cattle are to be removed from the road reserve and securely fenced to prevent any cattle from straying onto the road,
- f) In the event of wet weather, all stock is to be removed from the road reserve,
- g) The holder of the permit is to indemnify the RMS from all claims arising as a result of the presence in the road reserve of the stock subject to the permit – this means that both the RMS and Warrumbungle Shire Council must be shown as Interested Parties on the Public Liability Certificate of Currency,
- h) The approval of the relevant Council is obtained.
- i) At the end of the grazing period, all fencing materials including posts, wires and electric tapes are to be removed from the road reserve. Failure to do this will mean that Council will carry out these works at cost to the adjoining property owner and/or the person who made application for grazing rights.
- j) Stay on designated regional roads unless specified by council

The Regional Roads in Warrumbungle Shire are:

MR 129	(Coonabarabran – Premer, Baradine - Coonamble)
MR 329	(Baradine – Gwabegar)
MR 4053	(Timor Road)
MR 396	(Coonabarabran – Coolah)
MR 55	(Coolah – Mullaley)
MR 618	(Coolah – Merriwa)
MR 7519	(Mendooran – Dubbo)

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Applications to graze stock on the following Highways or MR 334 must be obtained direct from the RMS Parkes Office Ph.: 131 782 (PO Box 334 Parkes 2870)

Newell Highway  
Oxley Highway  
MR 334 (Mendooran Road)  
Golden Highway (Merriwa – Dubbo)  
Castlereagh Highway (Mudgee – Gilgandra)

**Responsibilities**

The Manager Properties will hold responsibility over this policy

**Associated Documents**

Operational Plan and Delivery Program 2013/14 – 2016/17  
Warrumbungle Shire Council Temporary Grazing Permit Procedures  
Rural Lands Protection Act 1998  
Local Lands Services Bill 2013  
Local Government Act 1993

**Getting Help**

The staff member/s that can assist with enquiries about the policy  
Position: Manager Property and Risk

**Version Control**

Review Date: September 2017 or when relevant legislation changes.  
Staff Member Responsible for Review: Manager Property and Risk

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Temporary Grazing Permits Policy	Endorsed	235	16 June 2005
Temporary Grazing Permits Policy	Endorsed	119/1314	19 September 2013

**Schmidt/C Sullivan  
The motion was carried**

**Item 38 2013/14 Technical Services Works Program**

Received.

**Item 39 Removal of Diseased Trees – Martin Street Coolah**

**120/1314 RESOLVED** that Council proceed with removal of three disease affected iron bark trees in the avenue of trees in Coolah, dedicated to remembering the Battle of Long Tan in the Vietnam War, and investigate the replacement of trees in consultation with the Vietnam Veterans.

**Capel/Schmidt  
The motion was carried**

**2.33pm**

The Director Corporate Services, Rebecca Ryan left the room having declared an interest in the next item before Council for consideration.

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**Item 40 Application to open up particular roads to B double trucks**

**121/1314 RESOLVED** that the following roads are assessed for use by B Double trucks with a length greater than 19 metres but less than or equal to 26 metres and for use by trucks with a height not exceeding 4.6 metres. The proposal to allow B Double trucks and 4.6 metre high trucks to use the roads is advertised through the local paper. Determination of the application is delegated to the General Manager.

- Carmel Lane. between Baradine Road (West) and Dinby Lane
- Angus Road. between Goorianawa Road and Beers Road.
- Borah Creek Road. between Oxley highway and Rayak Road
- Rayak Road. full length from Borah Creek Road.
- Wyuna Road. between Oxley highway and Mt Nombi Road
- Mt Nombi Road. between Wyuna Road and Black Stump Way
- Mia Mia Road. between Purlewaugh Road and Mitchell Springs Road
- Sansons Lane. between Purlewaugh Road and Mitchell Springs Road
- Mitchell Springs Road. between Sansons Lane and Shire boundary.
- Merryula Road. between Warrumbungle Way and the village of Ulamambri.
- Box Ridge Road. between Ulamambri and Ropers Road (near Binnaway)
- Uphills Lane. between Brooks Road and Purlewaugh Road
- Brooks Road. between Box Ridge Road and Uphills Lane.
- O'Conner Road. full length from Newell Highway intersection.
- Leaders Road. full length from Renshaw street in Binnaway.

**Coe/Andrews**  
**The motion was carried**


**2.40pm**

Director Corporate Services returned to the meeting.

Cr C Sullivan left the room

**Item 41 Strategic Policy – Access Across Road Reserves to Properties**

**122/1314 RESOLVED** that Council endorses the following Access Across Road Reserves to Properties to be included in the Strategic Policy Register.

	<b>Access Across Road Reserves to Properties</b>
	<b>Strategic</b>

**Purpose**

To clearly define responsibilities for physical access to properties.

**Objectives of the Policy**

The issues of financial contribution, specifications and approvals regarding property access are clearly defined.

### **Policy Scope**

This policy applies where property owners require vehicle access between property boundary and vehicle carriageway. This policy applies to driveway access and pedestrian access in urban areas. This policy also applies to property access in the rural area between vehicle carriageway and property boundary.

This policy also applies to situations where Council has altered levels and or drainage conditions on the carriageway which have affected property access levels.

### **Background**

Council is a roads authority and has responsibility for management of activities and condition of road reserves. The area of land between property adjoining the road reserve and the formed or constructed carriageway may be used as a driveway entrance or exit to the property. The property owner and Council have different roles in relation to management of driveway entrances.

### **Definitions**

**Road Reserve** - area of land designated as road and controlled by Council.

**Property Access** - sometimes referred to as driveway, driveway entrance, driveway exit. The area of land used by vehicles to cross between carriageway and property boundary.

**Vehicle Carriageway** - the section of road reserve used for vehicle travel. Where kerb and guttering exists, it is generally the area of road between kerb faces.

**Approved Property Access** - are access crossings either constructed by Council or constructed by the property owner in accordance with specifications and formal approval by Council.

**Unauthorised Access** - are those vehicle crossings that are either;  
1) Constructed with prior permission and/or not in accordance with Council specifications;  
or 2) Creating an obstruction to a road or stormwater drain.

### **Policy Statement**

The property owner is responsible for all costs associated with installation and maintenance of property access between vehicle carriageway and property boundary. Council is not responsible for any costs associated with upgrading or maintenance of property access.

Any upgrade, repair or maintenance works associated with the property access must first be approved by Council. Council may direct a property owner to undertake repairs to a property access where it can be shown that the access presents a public safety hazard or presents a hazard to the integrity of the road.

Roadworks undertaken by Council that change the condition or level of a property access will be remedied by Council.

The obstruction of drains or gutters with any objects or structures used by the property owner to obtain vehicle access will be considered unauthorised. Unauthorised accesses will be removed by Council staff after the property owner is given 28 days notice in writing.



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The installation of a second property access by the property owner will not be permitted unless specifically authorised by Council.

### **Responsibilities**

The following officers in Council have responsibility for implementation of this policy; Manager Road Operations, Manager Urban Services, Manager Asset & Design and Director Technical Services.

### **Associated Documents**

- Roads Act 1993.
- Policy Document - Contributions for Kerb & Guttering and Paving.

### **Getting Help**

Manager Urban Services and Manager Road Operations.

### **Version Control**

This policy shall be reviewed every four years by the Director Technical Services.


Policy Name	Version	Resolution	Date
Access to Properties	1	116	22 October 2009
Access to Properties	2	122/1314	19 September 2013

**Schmidt/Coe**

**The motion was carried**

### **Item 42 Strategic Policy – Asset Management**

**123/1314 RESOLVED** that Council endorses the following Asset Management to be included in the Strategic Policy Register.

	<b>Asset Management</b>
	<b>Strategic</b>

### **Purpose**

Warrumbungle Shire Council manages a significant portfolio of assets and is committed to establishing a framework for implementation of asset management processes throughout the organisation.

Council's goal in managing its assets is to deliver the required level of service in the most cost effective manner to provide services and infrastructure which meets the social and economic needs of the community now and in the future.

### **Objectives of the Policy**

The aim of this policy is to ensure that asset management strategies and asset management plans are developed and implemented within an overall framework of Integrated Planning and Reporting. The expected outcomes of this policy are:

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- Council services and infrastructure are provided in a sustainable manner, with the appropriate levels of service to residents, visitors and the environment.
- Protection of assets for current and future generations.
- Development of long term cost effective management strategies.
- All legislative requirements in relation to asset management are identified and met.
- Identification of key roles and responsibilities for asset management in the organisation.

### **Policy Scope**

This policy applies to all assets owned, leased or controlled by Warrumbungle Shire Council. Therefore, this policy applies to organisational areas that have the responsibility to manage, maintain, operate, or provide a service relating to Council's assets.

Initially asset management plans will be developed for the following asset groups; buildings, roads, water, sewerage and drainage. In time, asset management plans will also be developed for other infrastructure such as; passive and active recreation facilities, street trees, library books, waste facilities, cemeteries, street furniture, gravel quarries and fleet vehicles.

### **Background**

As per Legislative requirements, Warrumbungle Shire Council must account for and plan for all of the existing assets under its ownership, and any new asset solution proposed in its Community Strategic Plan and Delivery Program. Warrumbungle Shire Council must prepare an Asset Management Strategy and Asset Management Plan to support the Community Strategic Plan and Delivery Program.

### **Definitions**

**Asset** – a physical component of a facility, which has value, enables services to be provided and has an economic life of greater than twelve months.

**Asset Management** - the combination of management, financial, economic, engineering and other practices applied to physical assets with the objective of providing the required level of service in the most cost effective manner.

**Asset Management Plan** - a plan developed for the management of one or more assets that combines multi-disciplinary management techniques (including technical and financial) over the lifecycle of the asset in the most cost effective manner to provide a specified level of service.

**Asset Register** - a record of asset information considered worthy of separate identification including inventory, historical, financial, condition, and construction, technical and financial information about each.

**Fair Value** - the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

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**Level of Service** - the level of asset service as identified by the quality and quantity of its services or output.

**Life Cycle** - the cycle of activities that an asset (or facility) goes through from planning and design to decommissioning or disposal.

**Renewal** - works to restore, refurbish or replace, an asset to its original capacity or performance capability.

**Strategic Plan** - a plan containing the long term goals and strategies of an organisation, covering major portions of the organisation and identifying major targets, actions and resource allocations to support the organisation's efforts in an optimised and sustainable manner.

**Useful Life** - the period over which an asset is expected to be available for use by an entity (in the context of its service to the entity and not to the asset's actual physical life).

### **Policy Statement**

#### **6.1 General Principles**

The following general principles will underpin implementation of this policy:

All relevant legislative requirements together with political, social and economic environments are to be taken into account in asset management.

The strategic asset management plan must identify assets that are critical to Council's operations and outline risk management strategies for these assets.

Asset management principles will be integrated within existing planning and operational processes.

An inspection regime will be used as part of asset management to ensure agreed service levels are maintained and to identify asset renewal priorities.

The asset management plan must contain long term projections of asset maintenance, rehabilitation and replacement costs.

Asset renewals required to meet agreed service levels and identified in asset management plans and long term financial plans will be fully funded in the annual budget estimates.

Service levels agreed through the budget process and defined in Asset Management Plans will be fully funded in the annual budget estimates.

Asset renewal plans will be prioritised and implemented progressively based on agreed service levels and the effectiveness of the current assets to provide that level of service.

Systematic and cyclic reviews will be applied to all asset classes and are to ensure that the assets are managed, valued and depreciated in accordance with appropriate best practice and applicable Australian Standards.

Future life cycle costs will be reported and considered in all decisions relating to new services and assets and upgrading of existing services and assets.

Future service levels will be determined in consultation with the community.

The strategic asset management plan must include specific actions required to improve Council's asset management capability and project resource requirements and timeframes.

## **6.2 Preparation of an Asset Management Plan**

The asset management plan developed for a particular asset category or group of assets, must have a direct link with Council's delivery program. The content and format of the asset management plan must clearly identify links with the delivery program.

"..there is no single right way to structure an Asset Management Plan..", but would typically include the following components:

- The purpose of the Plan, its relationship with other planning documents and timeframes of the Plan.
- A description of the asset group(s) and the services delivered.
- An outline of the type of information available on assets, information system used and key standards and guidelines which influence asset management activities.
- Levels of service (current and desired) and a system of performance measures.
- Factors influencing future demand and impact of changing demand on assets.
- Management of risk.
- Summary of lifecycle management strategies (operations, maintenance and renewal/disposal of assets).
- Financial summary – long term cash flow projections for each significant asset group.
- Links to the Community Strategic Plan and Long Term Financial Plan, capital works and maintenance programs.
- (DLG Planning and Reporting Manual p82)

## **6.3 Performance and Targets**

Council's performance in meeting objectives of this policy will be regularly reviewed through the integrated planning and reporting process. The review will determine if:

- Funded actions arising from asset management plans are translated in delivery programs and operational plans.

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- Service levels from assets meet expectations identified in the community strategic plan.
- There is common understanding of sustainable service levels between Council and asset users.

The strategic asset management plan and the various asset management plans developed in accordance with this policy must be for a minimum timeframe of ten (10) years.

Council must report on the condition of the assets in the annual financial statements in accordance with the Local Government Code of Accounting Practice and Financial Reporting.

### **Responsibilities**

Staff are accountable for implementing asset management policies, strategies and plans as follows:

#### General Manager

Responsible for ensuring the development and resourcing of Council's strategic asset management plans and processes and for their integration with Council's Integrated Planning & Reporting framework under the Local Government Act.

#### Directors

Responsible for development and implementation of Council's strategic asset management plans and processes and for their integration with Council's Integrated Planning & Reporting framework under the Local Government Act.

#### Section Managers

Responsible for implementation of Council's strategic asset management plans, processes and activities, and for reporting on delivery performance.

### **Associated Documents**

The following legislation and guidelines apply to Local Government within an asset management context:

- Local Government Act 1993 & Local Government (General) Regulations 2005 (NSW).
- Local Government Code of Accounting Practice & Financial Reporting and the Asset Accounting Manual.
- Best Practice Management of Water Supply and Sewerage Guidelines, Department of Energy, Utilities and Sustainability.
- Division of Local Government - Circulars on Asset Management Planning for NSW Local Government.
- Planning a Sustainable Future – Planning and Reporting Manual for Local Government in NSW, DLG January 2010.

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- Australian Accounting Standards Board 116 (AASB116) – Property, Plant and Equipment.

Warrumbungle Shire Council acknowledges the following documents that were used to inform this policy:

- Templates from NAMS.PLUS suite of documents from the Institute of Public Works Engineering Australia 2010.
- Asset Management Policies from the following Councils; Waverley - December 2009; The City of Newcastle - April 2010; Willoughby City - September 2009; Albury City - May 2010; Port Stephens - May 2007; Ballina - January 2010, Penrith City Council - 2010.

### Getting Help

Manager Asset and Design.

### Version Control

This policy shall be reviewed every four years by the Manager Asset and Design.

Policy Name	Version	Resolution	Date
Asset Management Policy	1	260	20 January 2011
Asset Management Policy	2	123/1314	19 September 2013

**Schmidt/Capel**  
**The motion was carried**

### 2.45pm


Cr C Sullivan returned to the meeting.

### 2.47pm

Cr Todd left the room

### Item 43 Strategic Policy – Contributions for Kerb & Guttering and Paving

**124/1314 RESOLVED** that Council endorses the following Contributions for Kerb & Guttering and Paving to be included in the Strategic Policy Register.

	<b>Contributions for Kerb &amp; Guttering and Paving</b>
	<b>Strategic</b>

### Purpose

To advise property owners of potential costs where kerb and guttering and footway paving is constructed adjacent to their property.

### Objectives of the Policy

To recover contributions for the cost of kerb and guttering and footway paving from adjacent property owners.

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### **Policy Scope**

This policy applies when Council is constructing new kerb and guttering in an urban area.

### **Background**

Council has authority under Section 217 of the Roads Act 1993 to recover the cost of constructing any kerbing, guttering or footway paving from adjoining property owners.

### **Definitions**

**Kerb and Guttering** - concrete structure generally constructed to control stormwater and define boundary between vehicle carriageway and pedestrian footpath.

**Layback Crossings** - concrete structure to allow vehicles to cross between carriageway and footpath.

**Footway Paving** - constructed path for use by pedestrians, excludes cycleways and shared cycleway pedestrian facility.

### **Policy Statement**

The owner of land adjoining a public road is liable to contribute 50% of the actual cost of constructing or paving any kerb, gutter or footway along the front of the land.

The owner of land adjoining a public road with a secondary frontage is liable to contribute 25% of the actual cost of constructing or paving any kerb, gutter or footway along the secondary frontage of the land.

Costs will be recovered on the basis of lineal length of the property frontage or property secondary frontage. Layback crossings constructed as part of the kerb and guttering works are considered part of the lineal frontage.

Council will not recover any costs associated with constructing footway paving adjacent residential properties.

### **Responsibilities**

The following officers in Council have responsibility for implementation of this policy; Manager Road Operations, Manager Asset & Design and Director Technical Services.

### **Associated Documents**

- Roads Act 1993.
- Policy Document – Access to Properties.

### **Getting Help**

Manager Road Operations.

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**Version Control**

This policy shall be reviewed every four years by the Director Technical Services.

<b>Policy Name</b>	<b>Version</b>	<b>Resolution</b>	<b>Date</b>
Kerb and Gutter and Layback Crossing	1	129	16 November 2006
Contributions for Kerb & Guttering and Paving	2	124/1314	19 September 2013

**Schmidt/R Sullivan  
The motion was carried**

**2.49pm**

Cr Todd returned to the meeting.


**Item 44 Strategic Policy – Erection of Banners**

**125/1314 RESOLVED** that Council delete the Erection of Banners Policy from the Strategic Policy Register.

**Schmidt/R Sullivan  
The motion was carried**

**Item 45 Strategic Policy – Signs as Remote Supervision**

**126/1314 RESOLVED** that Council endorses the following Signs as Remote Supervision to be included in the Strategic Policy Register.

	<b>Signs as Remote Supervision</b>
	<b>Strategic</b>

**Purpose**

Council recognises that signs are used to convey various messages to reduce risk associated with a particular activity, service or feature undertaken in a public area. The purpose of this policy is to indicate Council's commitment to use of signs as a form of supervision and how the signs will be managed.

**Objectives of the Policy**

To minimise the risk of injury as a result of activities occurring in a public space, which are not directly supervised or controlled by Council, through the use of signage.

**Policy Scope**

This policy applies to activities that may occur in public swimming pools, parks and reserves.

**Background**

There are many examples of liability claims lodged against Councils throughout NSW based on signage. Claims generally centre on complaints from, or injuries to, third parties due to the absence of appropriate signage, insufficient signage, or the wording or the location of signage being deficient.

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### Definitions

**Supervision** - refers to those activities undertaken in a public space where a Council officer is in attendance.

**Remote Supervision** - refers to signs which provide information to users of a public space.

### Policy Statement

Council will manage signage used as remote supervision in accordance with the following principles:

- Council will install and manage signs that are used to provide safety advice in a public space in accordance with principles outlined in the document 'Signs as Remote Supervision Best Practice Manual'.
- Signs that do not meet current best practice and / or Australian Standards, shall be replaced as funds permit and in priority order based on risk assessment.

### Responsibilities

All managers and directors within Warrumbungle Shire Council.

### Associated Documents

- Policy Document - Risk Management
- Warrumbungle Shire Council's Risk Matrix
- AS/NZS 31000:2009
- Local Government Act.

### Getting Help

Manager Urban Services.


### Version Control

This policy shall be reviewed every four years by the Director Technical Services.

Policy Name	Version	Resolution	Date
Signs as Remote Supervision Policy	1	19	16 July 2009
Signs as Remote Supervision Policy	2	126/1314	19 September 2013

**Clancy/Capel**  
**The motion was carried**

**Item 46 Policy Upgrading of Roads Not Constructed or Maintained by Council 127/1314 RESOLVED** that Council endorses the following Upgrading of Roads Not Constructed or Maintained by Council to be included in the Strategic Policy Register.

	<b>Upgrading of Roads Not Constructed or Maintained by Council</b>
	<b>Strategic</b>

### **Purpose**

This policy aims to set out the circumstances and procedures under which property owners are able to undertake roadworks on Council public roads within the Warrumbungle Shire Local Government Area.

### **Objectives of the Policy**

The expected outcomes of this policy are as follows:

- To allow property owners to provide access to their land at reasonable cost.
- To minimise requests for Council to further upgrade or maintain a road provided by a property owner.
- An understanding by property owners of the conditions under which they are able to undertake roadworks when Council is not in a position to fund the works.
- That roadworks are undertaken in accordance with set guidelines and standards to minimise risk of injury or damage to users of the road.
- To ensure that the effects on the environment are considered and adverse impacts minimised.
- To ensure that de-facto land developers are required to provide a standard of road identical to that required by subdivision.

### **Policy Scope**

This policy covers those public roads vested in Council, but not constructed or maintained by Council. Within the Warrumbungle Local Government Area, there are many hundreds of kilometres of road vested in Council but not maintained by Council.

### **Background**

These roads often provide the only legal access to an owner's property, however they are not constructed or maintained by Council. In effect, these unformed roads are 'paper roads' or roads that are simply marked on a map. Often these roads traverse difficult terrain, such as flood prone areas and rocky ridges.

The relevant legal framework is contained in the Roads Act 1993.

- Council has no statutory duty to carry out works of construction or repair of public roads, or to keep them in repair.
- It is an offence to carry out any work on a public road without the consent of Council (Section 138).
- Council can give this consent subject to conditions (Section 139).
- Council can revoke this consent at any time and for any reason (Section 141).
- If the road is a Crown public road, the Land and Property Management Authority will only permit work on the road if Council accepts the road as public road. Council may impose identical conditions to those that would apply to a public road.

### **Definitions**

**Crown Roads** – public roads vested in the Crown and managed by the Land and Property Management Authority.

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**Council Public Road** – public roads vested and managed by Warrumbungle Shire Council.

**Property Owner** – owner of land within Warrumbungle Shire Council.

### **Policy Statement**

The expected outcomes of this policy are as follows:

- Council has an obligation to ensure that legal access is available to all lots. Council has no obligation to provide physical access to the lot(s).
- The market value of a lot reflects the amenities which benefit the lot, such as water supply, sewerage, sealed road access, etc.
- Council should not be required to provide vehicular access at its cost as this is effectively subsidising the purchase price of the lot.
- Owners of a lot on an unformed road who genuinely wish to build on the land should be able to do so at a reasonable cost, including the cost of provision of vehicular access.
- Council needs to minimise its exposure to subsequent complaints and requests for construction and sealing of the formed access road, by ensuring that it is built to an appropriate standard.
- Owners or developers of multiple lots located on an unformed road who intend to develop and resell the lots should be required to provide access to a standard that would apply to subdivision. In such cases, the developer should be prevented from the sequential extension of the road and sale of the lots one at a time, by 'bending' the policy.

If a property owner intends to gain vehicular access to their land along an unformed road, then the following procedures and conditions will apply:

- A written application to undertake roadworks by the property owner on a Council public road must be lodged clearly stating the reasons for the proposal. In the case of a Crown public road, the application must be accompanied by a letter of approval from the Land and Property Management Authority (Department of Lands).
- The application will be assessed and considered by Council at an Ordinary monthly meeting of Council. If an approval is given, the property owner must undertake the works in accordance with the following standard conditions:
  - In the case of access to a single lot or where vehicle movements are likely to be less than 10 per day on average:
    - Width – 4 metres.
    - Depth of compacted gravel – 100 mm.
    - Longitudinal grades greater than 1 in 6 are bitumen sealed.
    - Drainage pipes installed to convey 1 in 10 year storm event.
    - Adequate scour protection and table drains are constructed.
  - In the case of access to multiple lots or where vehicle movements are likely to be between 10 and 50 vehicles per day on average:

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- Width – 6 metres.
  - Depth of compacted gravel – 200 mm.
  - Road grades, horizontal and vertical curves designed for a design speed of 60 kph.
  - Longitudinal grades greater than 1 in 6 are bitumen sealed.
  - Drainage pipes installed to convey 1 in 10 year storm event.
  - Adequate scour protection and table drains are constructed.
  - Preparation of road construction plans.
- The upgrading of a road to Council standards does not automatically imply that Council will maintain that road. A formal resolution from Council is required before Council assumes responsibility for maintenance of the road.

**Responsibilities**

The following officers in Council have responsibility for implementation of this policy; Manager Road Operations, Manager Asset & Design and Director Technical Services.

**Associated Documents**

- Roads Act 1993.

**Getting Help**

Manager Road Operations.

**Version Control**


This policy shall be reviewed every four years by the Director Technical Services.

<b>Policy Name</b>	<b>Version</b>	<b>Resolution</b>	<b>Date</b>
Upgrading of Roads Not Constructed or Maintained by Council	1	143	21 October 2010
Upgrading of Roads Not Constructed or Maintained by Council	2	127/1314	19 September 2013

**Schmidt/Capel**  
**The motion was carried**

**Item 47 Strategic Policy – Public Pools**

**128/1314 RESOLVED** that Council endorses the following Public Pools to be included in the Strategic Policy Register.

	Public Pools
	Strategic

**Purpose**

The aim of this policy is to establish clear guidelines and procedures for the management of public pools within the Shire.

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### **Objectives of the Policy**

- a) To conserve and enhance for future generations public swimming pools as items of local and cultural significance.
- b) To provide public swimming pools within the Shire that meet the needs of the general public as a learning and recreational facility.
- c) To enhance community development and social interaction by providing a facility that can be utilised by sporting and recreational/educational organisations as well as private hire.

### **Policy Scope**

This policy introduces a set of procedures for management of Council owned public pools in the towns of; Baradine, Binnaway, Coolah, Coonabarabran, Dunedoo and Mendooran.

### **Background**

Public swimming pools provide an important venue for many forms of water sports, fitness and other recreational activities, and are enjoyed by significant numbers within the community throughout the year and particularly in summer.

Councils have a responsibility to ensure that adequate safeguards are in place to minimise the risks that can be associated with aquatic locations under their care and control. Therefore to ensure the health and safety of staff and patrons at the shire pool's Council has endorsed Legislative Acts and Guidelines relevant to this policy.

### **Definitions**

Nil

### **Policy Statement**

- To put in place Procedures that preserves and enhances the local, social and cultural heritage significance of these public assets.
- To put in place Procedures which provide for the fair and equitable access to these facilities, without compromising safety, efficiency or sustainability.
- To put in place budget allocations that will enable the safe and efficient operation of Council's Public Swimming Pools in accordance with public health guidelines, community expectations and legislative requirements.

### **Responsibilities**

The staff member responsible for the day to day application of this policy is Manager Urban Services.

### **Associated Documents**

Practice Note 15 (produced by the NSW Department of Local Government) and the Royal Lifesaving Guidelines for Safe Pool Operation will provide guidance on any standard not specifically discussed in the management procedures.

Other relevant documents include:

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- Public pool management procedures attached to this policy.
- Child Protection (Working with Children) Act 2012 No 51
- Enclosed Lands Protection Act 1901 Section 4 (1).
- Smoke Free Environmental Act 2000 Section 15 (7).
- NSW Dept. of Local Government: Practice Note 15.
- Royal Life Saving Association: Guidelines for Safe Pool Operations.

### Getting Help

Manager Urban Services and Supervisor Pools.

### Version Control

Review Date: September 2016.

Staff Member Responsible for Review: Manager Urban Services.

Policy Name	Version	Resolution	Date
Public Pools	1	57	21 August 2008
Public Pools	2	128/1314	19 September 2013

**R Sullivan/Capel**

**The motion was carried**

### Item 48 Collection and Recycling of E-Waste


**129/1314 RESOLVED** that Council resolve to engage Reverse E-Waste for an initial period of two years for the collection and recycling of E-Waste from Council's Waste Facilities and further that authority be granted to fix Council's seal to all associated contract documents.

**R Sullivan/Capel**

**The motion was carried**

### Item 49 Rural subdivision policy- requirements for electricity

**130/1314 RESOLVED** that Council adopt the amended Rural Subdivision Policy- Requirements for Electricity- Strategic 1.25

	<b>Rural Subdivision Policy – Requirements for electricity</b>
	<b>Strategic</b>

#### 1. Purpose

This policy sets out Warrumbungle Shire Council's requirements for the supply of power to land subdivided for the purpose of residential and rural residential lots.

#### 2. Objectives of the Policy

- a) To establish a consistent and coordinated approach to the creation of residential and rural residential lots throughout the Shire
  - b) To adopt standards for residential lots which will ensure that each lot is provided with a suitable level of amenity and services.
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**3. Policy Scope**

The policy applies to all development applications for the subdivision of land for residential and rural residential development, located on land zoned R1, R5 & RU5, within the Warrumbungle Shire and excludes lots created by State Environmental Planning Policy (Rural Lands) 2008

**4. Definitions**

*Accredited Service Provider:* A company who is accredited with the Department of Energy, Utilities and Sustainability to carry out electricity supply works in NSW.

*Notice of Arrangement:* A letter from an accredited service provider outlining acceptance for the arrangement to connect an electricity supply to the development.

**5. Policy Statement**

A basic reticulated power supply must be provided to all newly created lots for residential subdivisions located on land zoned R1, R5 & RU5.

The power supply must be provided by the developer and all adjustments to existing utility services made necessary by the development are to be undertaken by the developer at no cost to Council.

Prior to the issue of a Subdivision Certificate a notice of arrangement from an accredited service provider must be provided to the Principal Certifying Authority.

All necessary easements required within the development must be created and registered on the title in accordance with the requirements of Essential Energy.

**6. Responsibilities**

The Environmental Services Department of Council is responsible for enforcing this policy through imposing conditions as part of the development consent, and ensuring that an agreement to connect has been entered into between the service provider and the property developer, prior to the issue of a subdivision certificate.

**7. Version Control**

This policy is subject to regular review at a maximum of 2 year intervals.

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Rural Subdivision Policy – Requirements for water and electricity	Adopted	130	22 October 2009
Rural Subdivision Policy – Requirements for electricity	Draft	130/1314	19 September 2013

**R Sullivan/Todd**  
**The motion was carried**


**Item 50 Outdoor Smoke-Free Areas Policy**

**131/1314 RESOLVED** that Council adopt the Outdoor Smoke-Free Areas Policy to be included in the Strategic Policy Register.

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	<b>Outdoor Smoke-Free Areas Policy</b>
	<b>Strategic</b>

**Objectives of the Policy**

The objectives of Warrumbungle Shire Council banning smoking in various Council areas are to:

- Improve the health of community members;
- Improve public amenity and maintenance of Council property;
- Raise community awareness of the issues associated with smoking;
- Provide community leadership in taking measures to protect the health and social wellbeing of the community;
- Minimise cigarette butt pollution on Council owned waterways, parks and other open space areas.

**Principles**

This policy recognises that Council has:

- An obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to children and other members of the community;
- A commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces;
- An understanding that the damaging effects of passive smoking while well documented in regard to indoor areas, is also beginning to emerge in regard to outdoor areas;
- An acknowledgement that the indirect effects of people smoking in an outdoor area can result in children playing with and swallowing discarded cigarette butts, cigarette derived particles accumulating on clothing and skin, and smoking causing sensory irritations such as eye watering, coughing, difficulty in breathing or asthma.

**Policy Scope**

This policy applies to:

- Within 10 (ten) metres of all children’s playgrounds, youth centre facilities and children’s services/childcare centres;
- Within the immediate areas of all sporting and playing fields including grandstands, canteens/kiosks and immediate environs;
- At all swimming pool complexes;
- Within 4 (four) metres of a pedestrian access point to a building (excluding licensed premises and restaurants under the Liquor Act 2007)

This policy will apply to the following areas from 6 July 2015

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## WARRUMBUNGLE SHIRE COUNCIL

MINUTES OF THE ORDINARY MEETING OF THE WARRUMBUNGLE SHIRE COUNCIL HELD  
AT THE COUNCIL CHAMBERS, COONABARABRAN ON THURSDAY, 19 SEPTEMBER 2013  
COMMENCING AT 10.08AM PAGE 109

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- Within 4 (four) metres of a pedestrian access point to a licensed premises or restaurant;
- A commercial outdoor dining area.

### **Signage**

The smoke-free areas identified in Section 3 of this Policy will be signposted wherever practicable in prominent places. The signage will include the smoking prohibited symbol, the words "NO SMOKING", a reference to the name of the Smoke-Free Environment Act and the words "penalties may apply".

### **Responsibilities**

This policy will be enforced by "authorised persons", on any leases, licenses or other estates that apply to Council owned and managed lands and properties.

### **Definitions**

Authorised Persons: For the purpose of this policy Council Rangers and Lifeguards are deemed to be "authorised persons" and may serve a penalty notice upon any person reasonably suspected of failing to comply with the terms of any notices.

### **Enforcement of Ban**

In implementing Council's Smoke-Free policy, a program of community education and awareness, specifically targeting residents and visitors, is to be undertaken. Enforcement of this Policy will be supported by persuasion and self-policing rather than punitive enforcement.

### **Relevant Legislation**

Local Government Act 1993 – Section 632  
Local Government (General) Regulation 2005  
Smoke-Free Environment Act 2000  
Smoke-Free Environment Regulation 2007  
Liquor Act 2007

### **Associated Documents**

Staff 4.13 – Smoke Free Workplace Policy  
Strategic 1.15 – Public Pools Policy  
Strategic – Enforcement Policy

### **Version Control**

This policy is subject to regular review at a maximum interval of two years.

<b>Policy Name</b>	<b>Action</b>	<b>Resolution No.</b>	<b>Date</b>
Outdoor Smoke-Free Areas Policy	Adopted	318	11 March 2010
Outdoor Smoke-Free Areas Policy	Revised	416	20 May 2010
Outdoor Smoke-Free Areas Policy	Adopted	131/1314	19 September 2013

**Schmidt/Andrews**  
**The motion was carried**

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### **Item 51 Development Applications**

**132/1314 RESOLVED** that Council note the Applications and Certificates Approved, during August 2013, under Delegated Authority

**Todd/Capel**  
**The motion was carried**

### **QUESTIONS AND MATTERS OF CONCERN**

#### **Cr C Sullivan**

- Request for directional signage for Catholic Church at Coolah
- Cobbora Coal – media responses – would Council be involved in bringing media highlight to the community – communication between

#### **Cr Andrews**

- Visit to Sewerage systems in Parkes area if anyone would like to join them.

#### **Cr Capel**

- Thanks to staff for magnificent ground – Bowen Oval
- Meeting for coming events in Coolah – invitation to councillors/staff to attend
- Radio advertising regarding recycling pick up

#### **Cr Todd**

- St Lawrence's and Baradine School Horse Sports Day — requesting donation from Council of mowing and garbage collection – 10 and 11 October – advised Schools would need to apply for financial assistance in February
- Baradine resident seeking to take possession of gates from Coonabarabran No 1 oval

#### **Cr R Sullivan**

- Lease for Men's Shed at Coonabarabran – discussions to take place regarding new lease terms and conditions
- Was letter received from resident regarding unpaid rates and water flow

#### **Cr Schmidt**

- Development application and fencing issues relating to that development
- Napier Lane – condition of road and proposed maintenance program
- Graffiti issues in Coonabarabran – removal of graffiti

#### **Cr Clancy**

- Mary Jane Cain bridge area – exercise equipment to go into area – request whether Council could purchase equipment – informed Council could purchase equipment
- Old Police House site – current status
- Staff farewells

#### **Cr Coe**

- Montague Bridge – approaches - needs some maintenance
- Wallaroo Road – road access to properties – investigations to be undertaken to identify road works being undertaken.



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**Director Technical Services**

- Cr C Sullivan enquiry regarding signage for church – going to be considered by traffic committee meeting next week
- 16 October 2013 – RMS Regional Consultation Meeting - one Councillor can attend with DTS – interested Councillor to advise DTS

**General Manager**

- Rob Gordon - meeting at 6.30pm tonight at St Lawrence's School

There being no further business the meeting closed at 3.45 pm.

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**CHAIRMAN**