

WARRUMBUNGLA SHIRE COUNCIL

**MINUTES OF THE ORDINARY MEETING OF THE WARRUMBUNGLA SHIRE COUNCIL
HELD AT THE FIRE CONTROL CENTRE, COONABARABRAN ON THURSDAY,
22 OCTOBER 2009 COMMENCING AT 1.09PM**

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PRESENT: Cr Peter Shinton (Chairman), Cr Campbell, Cr Coe, Cr Dissanayake,
Cr Lewis, Cr Powell, Cr Schmidt, General Manager, Director Corporate
Services, Director Technical Services and Director Community Services

In attendance: S Morris (minutes).

LEAVE OF ABSENCE (Resolution No. 82 of 17 September 2009): Cr Sullivan and Cr Todd

APOLOGIES: Tony Meppem - Acting Director Environmental Services

100 RESOLVED that the apologies of Mr Tony Meppem be accepted.

Schmidt/Powell
The motion was carried

Cr Peter Shinton welcomed Councillors and members of the gallery to the meeting.

CONFIRMATION OF MINUTES OF THE ORDINARY MEETING OF WARRUMBUNGLA SHIRE COUNCIL HELD ON 17 SEPTEMBER 2009

101 RESOLVED that the minutes of the ordinary meeting of the Warrumbungle Shire
Council held on 17 September 2009 be endorsed.

Schmidt/Campbell
The motion was carried

ADOPTION OF THE RECOMMENDATIONS OF THE WARRUMBUNGLA SHIRE SOCIAL SERVICES ADVISORY COMMITTEE MEETING HELD ON 25 SEPTEMBER 2009

102 RESOLVED that the minutes of the Warrumbungle Shire Social Services Advisory
Committee Meeting held on 25 September 2009 be adopted.

Campbell/Schmidt
The motion was carried

ADOPTION OF THE RECOMMENDATIONS OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD ON 24 SEPTEMBER 2009

103 RESOLVED that the minutes of the Traffic Advisory Committee meeting held on
24 September 2009 be adopted.

Lewis/Schmidt
The motion was carried

BUSINESS ARISING

104 RESOLVED that Council take no action regarding the request for installation of
signs banning the use of skate boards on footpaths in Bolaro Street and Milling Park,
Dunedoo.

Coe/Powell
The motion was carried

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ADOPTION OF THE RECOMMENDATIONS OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD ON 22 OCTOBER 2009

105 RESOLVED that the minutes of the Traffic Advisory Committee meeting held on 22 October 2009 be adopted.

Lewis/Campbell
The motion was carried

BUSINESS ARISING

Recommendation 25

106 RESOLVED that Binnaway Progress Association be permitted to proceed with the erection of 'Do the Right Thing' signs as proposed at no cost to Council.

Lewis/Campbell
The motion was carried

1.30pm

Councillor Shinton informed the meeting of discussions at a Castlereagh Macquarie County Council meeting on 21 October 2009 attending by Councillors Shinton and Coe.

Councillor Shinton outlined the issues regarding Invasive Species Plan and the possible impact on Council.

1.44pm

GENERAL MANAGER'S REPORT

1.1 NOTICE OF MOTION

107 A motion was moved Councillor Schmidt seconded Councillor Powell that Council hold off on a decision about the proposed toilets in the Timor Street car park until further investigation takes place.

The motion was put and lost

1.2 PECUNIARY INTEREST RETURNS

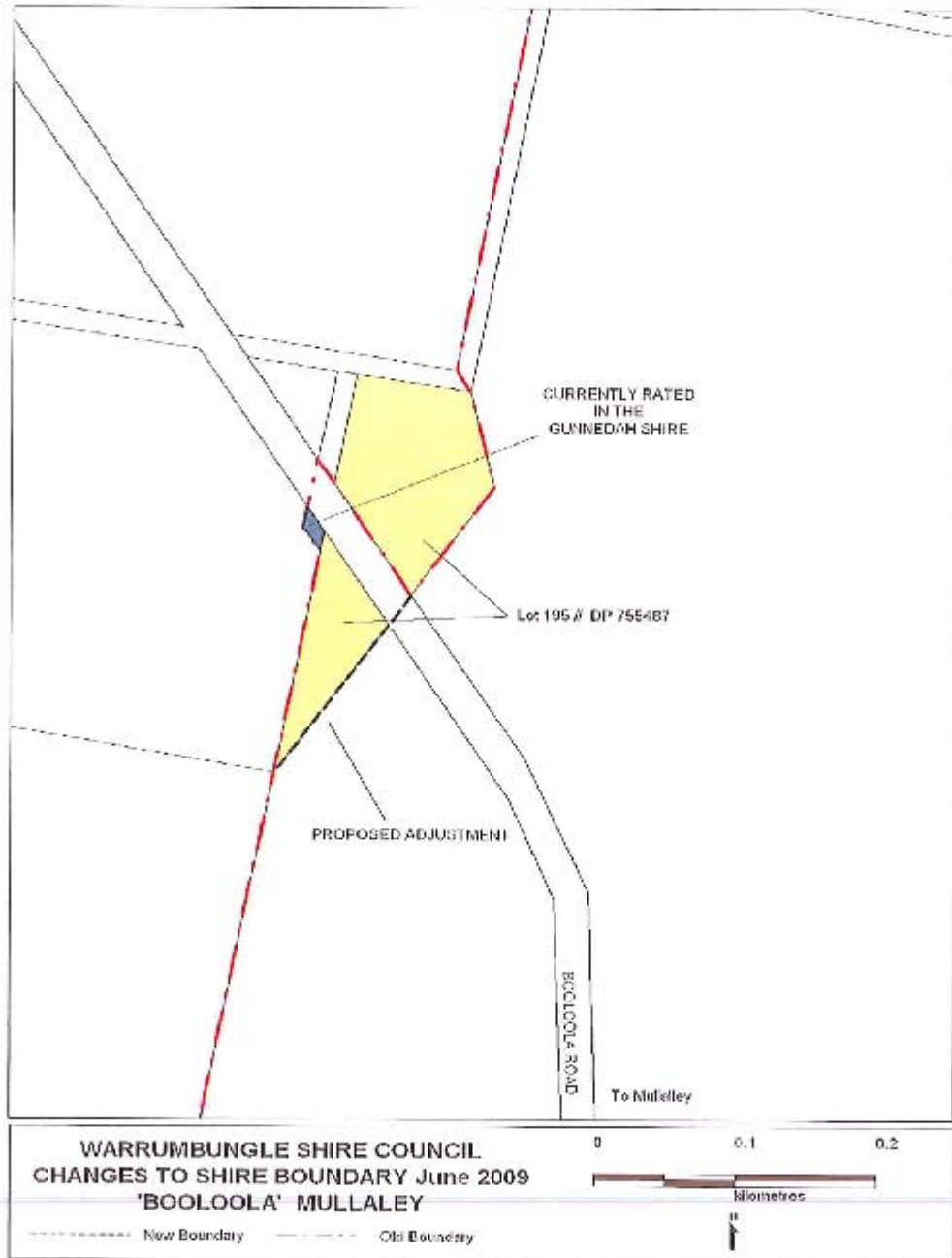
Received.

1.3 BOUNDARY ADJUSTMENT

108 RESOLVED that the General Manager be authorised to make application to the Minister for Local Government and the Governor of the State of New South Wales to alter the boundary of the Warrumbungle Shire Council to include an area of 1.18Ha which is currently rated by Gunnedah Shire and that part of Lot 195 DP 755487 that while within the gazetted boundary of Gunnedah Shire has been rated as being in Warrumbungle Shire Council. The adjusted boundary is shown by the broken black line on the plan below.

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Lewis/Powell
The motion was carried

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1.4 NOTICE OF MOTION

109 A motion was moved by Councillor Lewis seconded by Councillor Powell that a report be prepared and submitted to Council regarding the vacant position of Labourer in Binnaway together with budget implications and further that similar positions in other towns also be detailed in the report.

The motion was put and carried.

2.24pm

Councillor Dissanayake left the room.

2.25pm

1.5 NORTH WEST EQUESTRIAN EXPO

110 RESOLVED that Council take no action regarding the request from the North West Equestrian Expo for a contribution.

Schmidt/Coe
The motion was carried

Councillor Lewis recorded his vote against this resolution.

2.38pm

Councillor Dissanayake returned to the meeting.

1.6 POLICY FOR THE PAYMENT OF EXPENSES AND THE PROVISION OF FACILITIES TO MAYORS AND COUNCILLORS

111 RESOLVED that Council endorse the draft Policy for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors and that the draft be placed on public exhibition for 28 days seeking community comment.

Powell/Schmidt
The motion was carried

1.7 ST LAWRENCES OVAL

112 RESOLVED that Council not accede to the request from St Lawrence's School at Coonabarabran to contribute towards the cost of fencing.

Powell/Campbell
The motion was carried

1.8 DELEGATIONS – COMMUNITY COMMITTEES

113 RESOLVED that Council endorse the delegated functions for the following Committees:

WARRUMBUNGLE SHIRE TOURISM AND ECONOMIC DEVELOPMENT ADVISORY COMMITTEE

Tourism

The Group is delegated the following functions on behalf of Council.

- i Liaise with the community on future directions for the promotion of tourism within the Shire.

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- ii provide advice to Council through recommendations and budget submissions on community desires and aspirations for the development of Warrumbungle Shire as a tourist destination.

Economic Development

The Group is delegated the following functions on behalf of Council.

1. To advise council on economic development within Warrumbungle Shire Council.
2. To advise council on how to promote, market and raise the profile of the shire as attractive and viable for both residential and business location.
3. To assist with the establishment and expansion of viable business enterprises in the shire across the full spectrum of industrial, commercial and service activities.
4. Review and recommend improvements in council infrastructure development and liaison with other government agencies and local committees.
5. To develop, in conjunction with council, a development strategy for the future of the Warrumbungle Shire.
6. In all instances work with Council staff to achieve these objectives.
7. To investigate and provide advice to the council on all matters referred to the committee by council.
8. To investigate and provide advice to council on problems inhibiting the expansion of existing industries and/or the establishment of new industries within the shire and advise action to resolve these problems in co-operation with the Warrumbungle Shire Council.
9. Recommend budget items to improve and promote development facilities.

Council has also placed a restriction on any committee that is made up in part or whole by members of the public which requires the Committee to -

- i produce a budget;
- ii present an annual financial report to the Council's General Manager.

AERODROMES ADVISORY COMMITTEE

The committee is delegated the following functions on behalf of Council.

- i To provide advice to Council on the ongoing and future use of the Coonabarabran, Coolah and Baradine aerodromes.
- ii To review the operating standards that relate to all or individually the three aerodromes and offer advice in addressing those changing circumstances.

Council has also placed a restriction on any committee that is made up in part or whole by members of the public which requires the Committee to -

- i produce a budget;
- ii present an annual financial report to the Council's General Manager.

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MEDICAL SERVICES ADVISORY COMMITTEE

The committee is delegated the following functions on behalf of Council:

- i) To formulate policy for the Management of the Warrumbungle Shire Council Medical Centres
- ii) To formulate policies for the relationship between the Medical Centre and all other related health services within the community
- iii) To advise, liaise and assist any other body that is involved in providing health services to this community.

ORANA ARTS INCORPORATED COMMITTEE

The Committee is delegated the following functions on behalf of Council and in conjunction with the Memorandum of Understanding:

- i) Work actively with the Communities in the Region to deliver vibrant outcomes for the Community
- ii) Provide specific assistance to the Communities with projects and programs

WARRUMBUNGL SHIRE COUNCIL SOCIAL SERVICES ADVISORY COMMITTEE

The Committee is delegated the following functions on behalf of Council:

- i) Monitor and review the services provided by the Social Services – Warrumbungle Shire
- ii) Provide advice to Council through recommendations from Meetings

Lewis/Schmidt
The motion was carried

1.9 COMMUNITY COMMITTEES

114 RESOLVED that Council formally endorse the Committee and council's representative being the Director of Community Services for the Warrumbungle Shire Council Yuluwirri Kids Advisory Committee.

Powell/Dissanayake
The motion was carried

1.10 COMMUNITY COMMITTEES

115 RESOLVED that Council note the change of name for current committee being the Central Orana Regional Arts Steering Committee and endorse the renaming of that committee to Orana Arts Incorporated.

Schmidt/Coe
The motion was carried

1.11 COUNCIL POLICY

116 RESOLVED that council endorse the following Policies with amendments:

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Itinerant Markets

That no permission be granted to itinerant traders to sell goods from or on Council property.

Erection of Banners

That Council raise no objection to advertising banners provided they are where necessary erected by Country Energy on the poles provided and the approval of the Roads and Traffic Authority and local Police being first obtained when the banner is over a public road.

Staff Telephone Reimbursement

That Council meet the cost of rental and actual business calls of all staff whose telephone number is required to be shown as an after hours number.

All other staff will be reimbursed all documented and authorised business calls on behalf of Council.

Hall Tables And Chairs

The tables and chairs from Council Halls and Facilities shall not be available for public hire or use except for the following occasions:

- Any function organised by Warrumbungle Shire Council including Australia Day functions
- Schools within the Shire may use the equipment from local halls for functions eg, Year 12 formal; Science Fair; Presentation nights; School dinners (within a school or Council controlled hall)
- Use in association with the Hire of the Hall.

Access to Properties

To provide access to property within the Shire on the following conditions:-

- i In both towns and rural areas - full cost to landowners.
- ii Council does not pay for pavement across road reserve or travelling stock reserve to landholders gateway;
- iii At new road construction where levels are altered, Council installs and covers accesses to existing entrances.

Gravel Pit Access and Restoration

- i Siting
 - a) that material for road construction and maintenance be obtained from whatever source of suitable material is nearest to the site of the work for which the material is require, unless it is preferable having regard to all of the circumstances of the case, to obtain the material from an alternative site;
- ii Entry
 - a) that entry onto privately owned property for the purpose of obtaining material for road construction and maintenance be by agreement between the Council and the landholder concerned.

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- iii Damage
That in pursuance of this policy the Council cause as little damage as possible to the property concerned.
- iv *Restoration*
- a) That at the conclusion of the work the track used for haulage be graded or otherwise restored to the reasonable requirement of the landholder concerned;
 - b) That at the conclusion of the work any Council roads used for the haulage be graded or otherwise restored.
 - c) That as soon as practicable following the conclusion of the work the pit from which the material has been extracted be restored to the reasonable requirement of the landholder concerned; excepting that any restoration work involving rock work, large quantities of earthwork, restoration of top soil and grassing be first submitted to Council for determination.
- v Compensation
That in all cases the Council offer as compensation for material removed and land disturbed, an amount per cubic metre equivalent to the amount payable as “Gravel Royalty” determined from time to time by the Council.
- vi *Legal Considerations*
That in implementing this policy the provisions of the Local Government Act and the Environmental Planning and Assessment Act and all other relevant legislation be complied with.

Road Crossing for farm water supply

That:

- i All works must be completed at no cost to Council and to the satisfaction of the General Manager.
- ii That the pipe must be laid at a depth not less than 450 mm for the full width of the road reserve.
- iii That prominent markers bearing the legend “Water” must be placed over the pipe at each road reserve boundary.
- iv The applicant agrees to remove or relocate the pipe if required by Council and at no cost to Council.
- v The applicant agrees to meet the full cost of any road repairs which are attributable to the installation of the water supply.
- vi That the water pipe be installed in a conduit.

Local Contractor Policy

That Council’s policy be in future that local truck contractors be given a five per cent (5%) advantage on all Council works against non local contractors.

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Public Gates and Traffic By-passes

- 1 Council may grant a permit for the installation of a public gate across an unfenced road on written application by the occupier of land through which the unfenced road passes.
- 2 Where the applicant occupies land on only one side of the road, the application must contain the written permission of the owner(s) of the land on the other side of the road.
- 3 Where the applicant requests approval for the installation of
 - (a) A classified road: The applicant shall submit with the application, written approval for the gate, from the RTA.
 - (b) A rabbit proof, dog proof or marsupial proof fence: The applicant shall submit with the application, written approval of the local Livestock Health and Pest Authority.
- 4 Before determining an application for a public gate, Council shall cause notice of such application to be advertised in a local newspaper and seek submissions for a period of not less than 28 days.
- 5 On granting an application for a public gate and/or a traffic by-pass, notice of such approval shall be published in a local newspaper.
- 6 Where a permit for a public gate is issued, the applicant shall construct a traffic by-pass, along the line of the road, at the intersection of the boundary fence and the road, to a specification approved by the General Manager and erect the gate beside the by-pass.
- 7 The applicant granted approval to construct a by-pass in accordance with Clause 6 above shall:
 - (i) Install conspicuous notices near each end of the by-pass.
 - (ii) Maintain the by-pass and the notices in good condition.
 - (iii) Maintain the road approaches to the by-pass for a distance of 20 metres on either side of the by-pass and to the width specified in the approval.
- 8 Approval for public gates and traffic by-passes shall not be granted for roads, shown in Council's Management Plan, as being programmed for bitumen sealing.
- 9 Where grids currently exist in roads shown in Council's Management Plan as being programmed for bitumen sealing, notice shall be served on the adjoining landholders to fence the land fronting the road length to be bitumen sealed and to remove the grids.
- 10 In circumstances where the permit holder for the grid cannot be determined, Council shall service notice on the adjoining landholders directing them to fence out the affected length of road and Council shall remove the grids as part the work associated with the bitumen sealing.
- 11 Any permit for a public gate and/or traffic by-pass, may be revoked, at any time, by the serving of notice on the permit holder and the permit holder shall, within one month of the serving of the notice, remove the gate and/or by-pass. Failure of the permit holder to comply with such notice shall cause the Council to remove the by-pass and recover the cost of this work as a debt due to the Council, in any Court of competent jurisdiction.
- 12 The holder of a permit for a by-pass may close the by-pass by giving notice to the Council:

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- (i) prior to such closure; and
(ii) complying with any direction of the General Manager to ensure the safety of persons using the road.
- 13 This policy is to be read in conjunction with the Roads Act 1993 and the Roads Regulation 2008 and those provisions are deemed to be incorporated in this policy.
- 14 The fee applicable for the registration of a public gate and/or traffic by-pass shall be \$50.00 as amended from time to time.
- 15 Any application for the installation of a new grid to be approved by Council.
- 16 For category one unsealed roads the width of any new grid must be at least 6 metres. For category 2 and category 3 roads, the width of any new grid must be at least 4 metres.

**Powell/Schmidt
The motion was carried**

3.03pm

117 RESOLVED that standing orders be suspended.

**Schmidt/Campbell
The motion was carried**

At this time Mr Paul Cornall of Forsyths provided a comprehensive overview of Council's 2007/2008 Financial Statements.

4.02pm

At this time Mr Cornall left the meeting.

4.11pm

118 RESOLVED that standing orders be resumed.

**Schmidt/Campbell
The motion was carried**

1.12 RECORDS MANAGEMENT POLICY

119 RESOLVED that the Records Management Policy be endorsed as follows:

RECORDS MANAGEMENT POLICY

Introduction

The Warrumbungle Shire Council's policy on records management is to effectively manage information, relating to both physical and electronic formats.

This policy has been prepared on the basis of adherence to the statutory requirements detailed in the State Records Act 1998 and to enhance effective information management and retrieval within the Council.

For evidential purposes and accountability the council needs to be able to identify and control their records.

The objectives of the State Records Act 1998 are –

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- to ensure the better management of Government records throughout their existence
- to promote more efficient and accountable Government through improved record keeping
- to provide better protection for an important part of the State's cultural heritage
- ensure the safe custody and proper preservation of the State's records that it has control of.

Part 2 of the State Records Act 1998 - is concerned with:

- protecting records in the custody of a public office
- making and keeping full and accurate records of its activities
- establishing and maintaining a records management program in conformity with standards and codes of best practice which may be issued by State Records
- making arrangements for monitoring and reporting on the records management program and
- keeping technology dependent records accessible.

A systematic approach to records management within Warrumbungle Shire Council is vital to protect the information contained in records and support the conduct of business activities. The regulation of records management practices ensures that uniform protection is given to all records and that information can be readily retrieved owing to a standard form of identification and retrieval procedures.

Authority of this Policy

This policy is issued under the authority of the General Manager and will be reviewed and amended as required in consultation with Directors, Managers and staff of council.

Purpose of this Policy

The purpose of this policy is to establish a framework for the implementation of a records management program. All procedures and practices concerning records management are to be in accordance with this document.

Responsibilities

The General Manager is responsible for ensuring that Warrumbungle Shire Council complies with the regulations and requirements of the State Records Act.

The Director responsible for records management is the Director of Corporate Services and is accountable for the records and document management systems.

The responsibility for the implementation of this policy and the operational and efficient management of council records incorporating sound recordkeeping principles and records management best practice guidelines rests with the Administration Manager. Records staff will assist staff in fulfilling their recordkeeping responsibilities.

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Authority of the Administration Manager

The Administration Manager has the authority to set and issue corporate standards in relation to all aspects of records management and to monitor and audit compliance with those standards.

Purpose of the Records Management Program

Records management is the discipline and organisational function of managing records to meet operational business needs, accountability requirements and community expectations. Council is committed to maintaining a records management program that meets its business needs and accountability requirements.

An effective records management program entrenches formalised standards, procedures, recordkeeping systems and controls for future expansion and needs. Records are a vital ingredient in the support of Council's ongoing business activities. Access to records-based information is achieved through the provision of effective recordkeeping which support business operations and enable the Council to meet statutory and accountability requirements

Definition

Records Management focuses on the management of records to meet operational business needs, accountability requirements and community expectations.

Document Management focuses on the management of records such as documents produced by word processing packages, E-mail packages, spread sheet packages.

Image Management focuses on the management of electronic images of documents, drawings and pictures.

In many official documents such as legislation, bills and standards, the term '**record**' is used to mean '**document**'.

For the purpose of this policy:

"a record is any information captured in a reproducible form which is capable of transmitting meaning from one user to another."

Reproducible forms include paper, optical disk, magnetic tape, microfilm, scanned electronic image, computer disks, audio tape, photograph.

A State Record is defined under the terms of the State Records Act 1998 as follows:

"any record made and kept, or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for the use of a public office"

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Responsibilities and Accountabilities

All persons using the records and document management system should be aware of the requirements of the system.

Particular care must be taken with regard to the following activities:

- classifying, titling, indexing, registering and numbering files and documents;
- distribution – document/file movement and tracking, circulation and dissemination;
- maintenance – storage, file attachments, copying and data conversion;
- authorising records for destruction;
- choosing and purchasing of records management equipment;
- reviewing the records and document management system;
- maintaining, implementing and changing all or any part of the records management system.

Areas of Responsibility

The following table defines the areas of responsibility for all persons dealing with information:

Administration Manager - is responsible for:

- Determining and maintaining document management policy and standards throughout Warrumbungle Shire Council;
- Actively promoting the concept and usage of the Document Management System;
- Developing strategies for document management in the storage and retrieval of both physical and electronic records;
- Implementing records management policies and procedures;
- Monitoring the implementation of the requirements of the record keeping standards - Full and Accurate Records and Records Management Programs.
- Ensuring that physical and electronic records disposal schedules are utilised and that disposal of records or documents is in accordance with those schedules;
- Ensure regular audits of the records and document management system; and
- Ensure the integrity of the system - maintenance and updates.
- Supervising and allocating of work to clerical staff, and to ensure accurate sorting, indexing, filing and distribution of all incoming and outgoing correspondence;
- Providing efficient and effective day to day management of the records section to ensure that procedures are implemented and maintained for all records management functions;

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Records Officers - are responsible for:

- Opening, sorting and delivery of incoming mail;
- Preparing all outward mail and parcels for despatch;
- Assisting individual users in the indexing of documents they create.
- **Scanning, registering and allocating of correspondence;**
- Creation of new and part files according to established practices;
- Attending to enquiries relating to file identification, movements and locations;
- Providing access to active files and recording file movement;
- Maintain regular audits of the records and document management system;
- Maintain the integrity of the system – accurate and up to date;
- Assisting in the development and implementation of improvements to the records and document management system;
- Assisting in records and document management training programs including on the job training.
- Maintaining databases recording active, semi active and inactive files;
- Providing access to and retrieving archived files;

Individual Users – are responsible for

- Creation of records which will adequately document the business activities in which they take part and registering of those records into the recordkeeping system
- Accurately indexing documents they create.
- Active, semi-active and inactive files held or accessed by them
- Return of files to Records Officers when action has been completed on a file or further action is not contemplated in the immediate future.

Monitoring of the Records Management Program

Monitoring of the records management program is undertaken by the Administration Manager with results being reported to the Director of Corporate Services.

Value of records as a corporate asset and resource

The records of Council are a valuable and important information resource and in many cases are a unique and vital asset for its daily functions and operations that often cannot be easily reconstructed or replaced. They exist for a variety of administrative, functional, historical and legal reasons.

Records are the major component of the Council's corporate memory. They provide evidence of actions and decisions and document Council's transactions.

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Legislative Framework for Recordkeeping

The records management and recordkeeping practices of the Warrumbungle Shire Council and its staff will comply with relevant Acts and Regulations, standards and other mandatory requirements relating to records management.

These include:

- State Records Act 1998 (NSW)
- Freedom of Information Act 1989 (NSW)
- Government Information (Public Access) Act 2009
- Evidence Act 1995 (NSW)
- Limitations Act 1969 (NSW)
- Australian Standard AS 4390 Records Management
- Standard on Records Management Programs
- Standard on Full and Accurate Records
- Policy on Electronic Recordkeeping
- Local Government Records Disposal Authority (GDA 10)

Obligations of Records Users

Staff members shall not alienate, relinquish control over or destroy records of Council without authorisation to do so.

Staff members shall ensure that records in any format, including electronic documents and electronic messages are captured into the Council's recordkeeping systems.

Staff members are required to following authorised procedures in carrying out records management functions.

Staff members are required to handle records with care and respect in a sensible manner, to avoid damaging records, with a view to prolonging their life span.

Smoking, eating and drinking should not occur near records or in records storage areas.

Archives

The purpose of an archives program is to:

- establish and maintain physical and intellectual control over the Council's semi-active and inactive records
- establish and maintain a system to transfer information to non-current storage, to facilitate quick access and to alleviate storage problems of paper files.
- preserve the physical condition of those records in the archive's custody which have been selected as potential State Archives by the Archives Authority prior to transfer to the State Archives.

Disposal

The two main components of disposal are **Retention** and **Destruction**.

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The Director of Corporate Services and Administration Manager are accountable for the disposal of records. This will be carried out in accordance with the General Disposal Authority - Local Government Records (GDA 10).

Destruction is authorised only by official disposal schedules. Destruction of records will be carried out to ensure that sensitive or confidential information is protected from exposure.

If there is a need to destroy records or documents, staff should contact the Administration Manager.

Risk Management (Vital Records) – Records Security

The security of all Council records is crucial as records provide evidence of business transactions, support management decisions and ensure public accountability requirements are met.

Records in all formats should be stored securely to prevent unauthorised access, destruction, alteration or removal.

Records which are integral to the conduct of Warrumbungle Shire Council's business require special measures to protect them from damage or destruction. Risk assessment is necessary to identify vulnerable records.

Vital records should be classified as such and clearly identified. Vital records should be stored in protective or fire resistant conditions with suitable access conditions. Confidential records should be stored in locked storage cabinets in a fire proof safe with access restrictions.

Audit

Regular audits of the records and document management systems shall be carried out to ensure that it is operating efficiently, that all records can be accounted for (including destruction that has taken place within audit period) and to identify and resolve any anomalies in the system.

Glossary

Below is a list of terms used that staff will come across from time to time.

Archives	Those records selected and retained permanently because of their administrative, financial, legal, research or informational value.
Active Records	Current/frequently used in the normal course of business.
Custody	The responsibility for the care of records, archives or other material, based on their physical possession. Custody does not always include legal ownership, or the right to control access to records.

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Disposal	A program of activities to include the migration or transmission of records between recordkeeping systems and the transfer of custody or ownership of records. It includes retention, deletion or destruction of records in or from recordkeeping systems.
Disposal Schedule	A systematic listing of records which plans the life of those records from the time of their creation to their disposal.
Inactive Records	No longer required in the normal course of business
Recordkeeping	Making and maintaining complete, accurate and reliable evident of business transactions in the form of recorded information
Recordkeeping systems	Information systems, which capture, maintain and provide access to records over time.
Register / Registration	The act of giving a record a unique identity in a recordkeeping system
Semi-Active Records	Required for the normal course of business, but are no longer required for frequent reference. (Used less than three (3) times per month)
Tracking	Capturing and maintaining information about the movement and uses of records

Lewis/Powell
The motion was carried

1.13 REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM (RLCIP): ROUND TWO \$220 MILLION

120 RESOLVED that detailed information including costings be prepared and submitted to Council's November 2009 meeting for the Dunedoo Recycling Plant (as Council's number one project) and Coonabarabran Town Hall (Council's number two project) for consideration as possible projects for nomination of RLCIP funding.

Coe/Powell
The motion was carried

121 RESOLVED that consideration of projects for RLCIP Strategic funding nomination be deferred until the November 2009 meeting.

Powell/Campbell
The motion was carried

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1.14 COMMUNITY GARDEN

122 RESOLVED that Council is, in principle, prepared to make the land available and further that the proposal be advertised for 21 days for public comment and that all identified adjoining property owners be written to setting out the proposal and seeking their comments within 21 days. **FURTHER** that the matter then be brought back to Council for determination.

Schmidt/Dissanayake
The motion was carried

5.03pm

DIRECTOR OF CORPORATE SERVICES

2.1 BANK ACCOUNTS AND INVESTMENTS AS AT 30 SEPTEMBER, 2009

Received as information.

2.2 INVESTMENTS HELD AS AT 30 SEPTEMBER 2009

Received as information.

2.3 RECONCILIATION OF GENERAL FUND BANK ACCOUNT – AS AT 30 SEPTEMBER 2009

Received as information.

2.4 RATES AND CHARGES COLLECTION – UP TO and INCLUDING END SEPTEMBER 2009

Received as information.

2.5 RATES/REVENUE POLICIES

123 RESOLVED that Council delete Operational Policy 2.1 – Debt Recovery and adopt a Rates and Revenue Policy which includes as separate sub-policies the following Payment of Rates Policy and Pensioner Concessions Policy, with others to be added as the need arises:

RATING POLICY - PAYMENT OF RATES

Policy Objective:

To ensure collection of rates, charges and sundry debtors is carried out in a transparent manner and complies with the Local Government Act and Section 60 of the Trade Practices Act.

1. Recovery of Debts:

- a) Recovery action may 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.

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-
- b) 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.
 - c) Recovery action will commence if other debts (*other than amounts due from Government Departments*) are not paid within ninety (90) days unless arrangements have been entered into.

2. Agreements for Periodical Payments

- a) 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.
- b) In order for such an agreement to be considered a 'Payment Arrangement' form is to be completed subject to mutual agreement of payment amounts (appendix 1). 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.
- c) Verbal agreements shall not provide a reprieve from the debt recovery process.
- d) 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.
- e) 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.

3. Writing off Accrued Interest:

- a) 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.
- b) All applications for writing off accrued interest must be made in writing.

4. Writing Off by Resolution:

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

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5. Miscellaneous Debtors:

- a) The debt must be greater than \$300.00 to be considered for legal recovery process.
- b) If the debt is not satisfactorily resolved within twelve (12) months, the debt is to be recommended for adjustments or write-off.

RATING POLICY – PENSIONER CONCESSIONS

Purpose

To ensure that all applications for the statutory pensioner concession are managed equitably and in compliance with current legislation.

Introduction

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

1. ELIGIBILITY CRITERIA

1.1 Eligible Persons

The 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 centrelink;
- 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.

1.2 Other Conditions of Eligibility for Concession

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

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- 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*).
- Do not rent the property.
- 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.

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.

2. APPLICATION FOR CONCESSION

2.1 Application Form

The eligible person must fully complete the Pensioner Concession Application Form shown in Annexure A. Applicants must sign the customer consent, which allows Council to confirm with 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.

2.2 Evidence

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

2.3 Confirmation

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

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3. APPLYING THE CONCESSION

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 current 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.

3.2 Value of Rebate

The amounts of the concession available on an annual basis (current as at 1 July 2009) are:

- Up to \$250.00 on all ordinary rates and domestic waste management service charges; and
- Up to \$87.50 on water supply service charge; and
- Up to \$87.50 on Domestic Waste service charges.

4. 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.

Powell/Coe
The motion was carried

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2.6 SHORTFALL IN SECTION 44 CLAIM (DECEMBER 2006-JANUARY 2007)

124 RESOLVED that Council write off the outstanding balance of \$35,213.72 and provide a supplementary vote of \$35,213.72 and **FURTHER** that Council pursue recovery of this debt.

Schmidt/Campbell
The motion was carried

5.51pm

DIRECTOR OF TECHNICAL SERVICES

3.1 SHIRE ROAD INSPECTIONS

125 RESOLVED that Council adopt the following road inspection documents as Council's road inspection procedure.

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Warrumbungle Shire Council Sealed Inspection Checklist

Category 1 Local Roads Frequency - Monthly
Category 2 Local Roads Frequency - Quarterly
Category 3 Local Roads Frequency - Half Yearly

Road Name :		Rating	
Category :		Rating	
Date :		Action Taken	
Inspector :		Rating	
Defects		Hazards	
Defect	Severity	Hazard / Location	Action Taken
Edgebreak	1 = <75mm and <10% 2 = <75mm and 10 - 30% 3 = >75mm or >30%		
Potholes	1 = <20mm deep, <100mm Diameter 2 = 20-50mm deep, >200mm Diameter 3 = >50mm deep, >300mm Diameter		
Grass Curbing	1 = <150mm high 2 = 150 - 300mm high 3 = >300mm high		
Pavement Failures	1 = >80% average speed 2 = 70 - 80% average speed 3 = 60 - 70% average speed 4 = 50 - 60% average speed 5 = <50% average speed		
Table Drains	1 = minimal ponding no pavement failures 2 = 10 - 30% ponding some pavement failures 3 = >30% ponding pavement failure obvious		
Curverts	1 = 0 - 20% blocked 2 = 20 - 50% blocked 3 = >50% blocked		
Roadside Furniture	1 = no signs missing, guideposts on culverts 2 = <20% signs or guideposts missing 3 = >20% signs or guideposts missing		
Total Defect Score			

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Road Name :
Category :
Date :
Inspector :


Warrumbungle Shire Council Unsealed Inspection Checklist

Category 1 Local Roads Frequency - Monthly
 Category 2 Local Roads Frequency - Quarterly
 Category 3 Local Roads Frequency - Half Yearly

Defect	Severity	Rating	Hazard / Location	Hazards	Action Taken	Rating
Unsealed Corrugations	1 = >80% average speed					
	2 = 70 - 80% average speed					
	3 = 60 - 70% average speed					
	4 = 50 - 60% average speed					
	5 = <50% average speed					
Unsealed Potholes	1 = >80% average speed					
	2 = 70 - 80% average speed					
	3 = 60 - 70% average speed					
	4 = 50 - 60% average speed					
	5 = <50% average speed					
Unsealed Reshoeing	1 = 0 - 5% exposed subgrade					
	2 = 5 - 10% exposed subgrade					
	3 = 10 - 20% exposed subgrade					
	4 = >20% exposed subgrade					
Table Drains	1 = minimal ponding					
	no pavement failures					
	2 = 10 - 30 % ponding					
	some pavement failures					
Culverts	3 = >30% ponding					
	pavement failure obvious					
	1 = 0 - 20% blocked					
	2 = 20 - 50% blocked					
	3 = >50% blocked					
Roadside Furniture	1 = no signs missing, guideposts on culverts					
	2 = <20% signs or guideposts missing					
	3 = >20% signs or guideposts missing					
Total Defect Score						

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warrumbungle
SHIRE COUNCIL

Local Roads Risk Assessment Reckoner

Consequence How Bad is It Likely To Be	Probability How Likely is it To Happen			
	High/Very likely: Could Happen at any time	Medium/ Likely: Could Happen Sometime	Low / Unlikely: Could Happen but Very Rarely	Rare / Very Unlikely: Could Happen but Probably Never Will
1: Kill or Cause Permanent Disability Vehicle or Vehicles a write off	1	1	2	3
2: Long Term Illness / Permanent Injury Vehicle needs to be towed from scene	1	2	3	4
3: Medical Attention and Time Off Work Vehicle may lose control / Some Damage	2	3	4	5
4: First Aid Needed Vehicle May Require Mechanical Assistance	3	4	5	6

<p>Risk Rating</p> <p>1 2 3 4 5 6</p>	<p>Minimum Action Required</p> <p>Rectify immediately or signpost appropriately until defect is rectified. Signpost defect if necessary and schedule at weekly meeting. Raise at weekly meeting and prioritise, may include in annual programs. Include for consideration in annual programs. No action required No action required</p>	<p>Notify</p> <p>Manager Supervisor Meeting Meeting NA NA</p>
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Schmidt/Campbell
The motion was carried

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3.2 2009/10 REGIONAL ROAD REPAIR PROGRAMME – CHANGE IN LOCATION OF PROPOSED WORKS

126 RESOLVED that the scope of works under the 2009/2010 RTA REPAIR Programme be changed by including segment 27 in the project scope and deleting reference to segment 66 and 65.

Lewis/Powell
The motion was carried

3.3 2010/2011 REGIONAL ROAD REPAIR PROGRAM

127 RESOLVED that Council's priority for REPAIR programme funding in 2010/11 and forecast programme is as follows:

Project No.	Project Description	Total Project Cost		
		2010/11	2011/12	2012/13
1	Realignment of vertical and horizontal approaches to Yuggel Creek on MR129 with initial seal of 0.6km.	\$800,000		
2	Realignment of vertical and horizontal approaches to Saltwater Creek No 2 on MR129 with initial seal of 1.1 km		\$800,000	
3	Rehabilitation and widening of MR55 south of Coolah, Segments 29 & 30.			\$800,000
Total		\$800,000	\$800,000	\$800,000

Powell/Schmidt
The motion was carried

5.59pm

ACTING DIRECTOR OF ENVIRONMENTAL SERVICES

4.1 JACKSON STREET INDUSTRIAL SUBDIVISION

128 RESOLVED:

1. That Council agrees to carryout the works necessary to obtain a subdivision certificate for proposed lot 20 on the approved plan of subdivision without further delay subject to the Mayor and General Manager accepting a quotation for the extension of the sewer main to the land and being satisfied that the reserve price for the lot will adequately compensate Council for the cost of developing the land.
2. That Council staff investigate the most appropriate means of staging the next release of land and report at a future Council meeting once the outcome of loan funding applications has been made public.

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3. That the lot created in stage one of the subdivision be offered for public auction with a reserve price set for the land based on an independent valuation of the market price by a registered valuer.

Schmidt/Coe
The motion was carried

6.01pm

4.2 DEVELOPMENT APPLICATION FOR DETERMINATION – DA 105/0910 SUBDIVISION OF ONE (1) LOT INTO TWO (2), LOT 22, DP 263478, TIBUC ROAD, COONABARABRAN.

129 A motion was moved by Councillor Powell seconded by Councillor Dissanayake:

That pursuant to the provisions of section 80 of the Environmental Planning and assessment act 1979, Council refuse development consent to Development Application No. 85/2009 for development of the subdivision of one (1) lot into two (2) on land at Lot: 22 DP:263478, 'Raglan' Tibuc Road Coonabarabran, for the following two (2) reasons:-

- (a) The applicant has provided insufficient information to allow Council to determine the application.
- (b) Non-compliance with the State Environmental Planning Policy Rural Lands (2008), Coonabarabran LEP 1990 and Council's DCP No. 3 Rural Lands.

Councillors Campbell, Coe, Dissanayake, Lewis, Powell and Shinton voted in favour of the motion refusing development consent and **Councillor Schmidt** voted against the motion.

4.3 RURAL SUBDIVISION REQUIREMENTS FOR WATER AND ELECTRICITY

130 RESOLVED that in dealing with subdivision applications Council adopts the following policies in relation to the provision of power and water supplies:

1. That no water condition be imposed at subdivision stage (unless requested by NSW Rural Fire Service or the new lots are practically connected to town reticulated water) and that the matter be dealt with as part of the dwelling development application
2. With consideration of comments provided by Country Energy, one of the following are required.

In the instance that power is available to the subject site the following condition is to be applied to the Notice of Determination:

A notice of arrangements or a certificate of acceptance to connect to electrical services shall be provided to the Certifying Authority with the Subdivision Certificate.

All adjustments to existing utility services made necessary by the development

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are to be undertaken by the developer at no cost to Council.

If, in the instance that Council determines it to be unreasonable to provide power to a site, the following condition is to be applied to the Notice of Determination:

An easement for electricity 20m wide shall be created from the connection point of the existing electricity network to each proposed allotment. This easement shall be registered on the title of the relevant lots, naming Warrumbungle Shire Council and Country Energy as the authorities empowered to release or modify the same.

Campbell/Lewis
The motion was carried

4.4 DRAFT SECTION 94A CONTRIBUTIONS PLAN

131 RESOLVED:

1. That Council adopt the draft format and general content of the Draft Warrumbungle Shire Council Section 94A (Indirect Community Infrastructure Contributions) Plan 2009 and determine the list of items to be included in the works schedule to the document.
2. That the plan be placed upon public exhibition and submissions sought after consultation and agreement with the Department of Planning in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Powell/Schmidt
The motion was carried

4.5 WARRUMBUNGLE ENFORCEMENT POLICY

132 RESOLVED that Council adopt the following Warrumbungle Shire Council Enforcement Policy and that a copy be placed in Council's policy register and on the Council website for public access.

Warrumbungle Shire Council "Enforcement Policy"

Preface

Warrumbungle Shire Council is involved in a broad range of regulatory activities.

In recognition of the regulatory responsibilities of all Councils, the NSW Ombudsman in June 2002 published "Enforcement Guidelines for Councils" which included a model enforcement policy. The guidelines and model policy were used as the basis for developing the Warrumbungle Shire Council Enforcement Policy.

The enforcement policy reflects the need for the decision making processes of Council's authorised officers to be carried out in a transparent, efficient, fair and consistent manner while having regard to all the circumstances in each case.

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TITLE

This policy (“the policy”) is called the Warrumbungle Shire Council Enforcement Policy.

1. PURPOSE

The purpose of this policy is to:

- Acknowledge Council’s obligation under Section 8 of the Local Government Act 1993 to ensure that its regulatory powers are applied in a consistent manner and without bias, and
- Provide a proactive policy statement regarding the enforcement and compliance with legislation and/or condition/s of development consent, and
- Foster prompt, consistent and effective action by the Council in response to allegations of unlawful activity whilst ensuring that the principles of natural justice are respected.

2. POLICY OBJECTIVES

The aim of this policy is to establish clear guidelines for the exercise of discretion in dealing with proactive regulatory action by the Council and customer service requests or complaints about unlawful activity. It provides guidelines on:

- a) How to assess whether complaints of unlawful activity require investigation’
- b) Options for dealing with unlawful activity;
- c) How to decide whether enforcement action is warranted.

3. ENFORCEMENT PRINCIPLES

Warrumbungle Shire Council is committed to:

- (1) Acting in the interest of protecting community health, safety and the environment;
- (2) Acting consistently, fairly and impartially;
- (3) Preventing discrimination on the basis of race, religion, sex, national origin, political association or other personal reason/s;
- (4) Ensuring enforcement action is in keeping with the relative severity of the offence(s);
- (5) Ensuring enforcement action is taken against the right person for the correct offence;
- (6) Ensuring that any actual or potential conflict of interest situations are managed in a fair, consistent and impartial manner;
- (7) Disclosing all evidence relevant to the alleged offence/s;

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- (8) Assisting the Court by providing all necessary information whether or not that information is in favour of the Council case;
- (9) Issuing cautions to the alleged offender/s, where necessary;
- (10) Making cost effective decisions concerning enforcement action having regard to the likely outcome at court;
- (11) Ensuring action is instigated within the specified time limits.

4. APPLICATION

This policy applies to the investigation and enforcement of complaints about unlawful activity or failure to comply with the terms or conditions of approvals and orders.

While primarily directed at the regulation of development activity, the policy is also applicable to pollution control, regulation of parking, control over animals, unauthorised development including buildings, non-compliance with development consent conditions, food safety, public health and safety issues.

5. RESPONSIBILITY

All Council staff who deal with the proactive enforcement of relevant legislation in addition to written and verbal action requests or complaints alleging unlawful activity are responsible for implementing these policy guidelines. All notifications of alleged unlawful activity should be appropriately recorded by the Council.

6. DEFINITIONS

“Unlawful activity” is any activity or work that has been or is being carried out:

- a) Contrary to the terms or conditions of a development consent, approval, permission or other written authorisation from the Council.
- b) Contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land
- c) Contrary to legislative provision regulating a particular activity or work;
- d) Without a required development consent, approval, permission or the like;
- e) Contrary to New South Wales legislation for which the Council is the appropriate regulatory authority.

7. INVESTIGATING UNLAWFUL ACTIVITIES

All complaints and matter regarding unlawful activities will be reviewed to determine whether the matter requires enquiry or investigation. Further enquiries/investigation will not be initiated where:

- a) The matter has already been investigated and resolved, or

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- b) The Council has no jurisdiction (for example, NSW WorkCover issues on buildings sites or amusement devices or an internal matter within strata buildings or where the Department of Environment and Climate Change is the appropriate regulatory authority etc), or
- c) The activity is determined to be lawful without an investigation.

In considering whether a complaint will warrant enquiry or investigation the Council will consider a range of factors, including:

- (1) Is the matter within the jurisdiction of the Council?
- (2) Is the complaint premature e.g. does it relate to some unfinished aspect of work that is still in progress?
- (3) Is the activity or work permissible with or without consent?
- (4) If the activity is permissible with consent, is there a consent in place?
- (5) Is it possible to determine from the information available to the Council whether the activity or work is permissible without consent and/or whether all conditions of consent are being complied with?
- (6) Is the complaint trivial, frivolous or vexatious?
- (7) Has too much time elapsed since the events which are the subject of the complaint?
- (8) Is there a more appropriate agency to investigate and deal with the matter?
- (9) Is the activity having a significant detrimental effect on the environment, or does it constitute a risk to public safety?
- (10) Does the complaint indicate the existence of a systemic problem e.g. if the complaint is one of a series, could there be a pattern of conduct or a more widespread problem?
- (11) Is there a history of related complaints against this person or organisation?
- (12) Does the complaint have special significance in terms of the priorities of the Council?
- (13) Are there significant resource implications in relation to an investigation and any subsequent enforcement action?
- (14) Is it in the public interest to investigate the complaint?
- (15) The effective use of resources having regard to the circumstances of the case.

If a decision is made not to investigate a complaint, this decision must be recorded with the reasons for that decision and the complainant so advised.

RESPONDING TO COMPLIANTS

Every effort will be made to ensure that all Customer Service Requests or complaints about alleged unlawful activity are actioned within the 'service standard' time allowed for resolving the category of complaint as indicated in the Customer Service Request system. Action will be instigated within the following time frames:

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- a) Urgent and life threatening matters should be actioned as soon as possible following receipt of the complaint. Examples include unsafe building works, dangerous awnings, collapsed building/wall, serious pollution, food safety issues and public health and safety matters, etc. As a guide these matters should be dealt with on the day of the receipt of a complaint.
- b) General compliance matters will be dealt with on a priority basis having regard to the relative seriousness of the matter. These examples include works not in accordance with consent or construction without consent, illegal use, noise and food complaints.
- c) Nuisance matters should be actioned within fourteen working days' examples include domestic noise matters, minor non-compliance such as overgrown land or other matters in which there are no likely immediate health or safety implications.

Note that response times may vary depending on staff and other resources. However the Council will acknowledge the complaint and keep the complainant informed in accordance with the service standards of the Council.

Confidentiality of complainants

The Council will respect the privacy and confidentiality of information received. However due to its statutory obligations and other requirements, confidentiality cannot always be guaranteed. In cases where the release of information is considered to be necessary the person who made the complaint will be consulted before such a decision is made. The complainant's identity may be disclosed where:

- The person consents in writing to the disclosure of that information; or
- The principles of natural justice dictate that information be disclosed to the person who is the subject of the complaint, which may enable the complainant to be identified; or
- Council is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively.

OPTIONS FOR DEALING WITH CONFIRMED CASES OF UNLAWFUL ACTIVITIES

The Council will try to use the quickest and most informal option to deal with unlawful activity wherever possible unless there is little likelihood of compliance with such options.

Approaches to be considered include:

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- (1) Referring the complaint to an external agency for further investigation or prosecution.
 - (2) Taking no action on the basis of a lack of evidence or for some other appropriate reason.
 - (3) Counselling the subject of the investigation to educate them on the relevant Council requirements.
 - (4) Negotiating with the subject of the investigation and obtaining some undertakings to address the issues of concern arising from the investigation e.g. an application for modification of development consent.
 - (5) Referring the parties for mediation with the Community Justice Centre or alternatively for private mediation.
 - (6) Issuing a letter requiring work to be done or activity to cease in lieu of more formal action.
 - (7) Issuing a notice of intention to serve an order or notice under relevant legislation, followed by service of an appropriate order or notice (Local Government Act ss. 124 – 128, Environmental Planning and Assessment Act s. 121B, and the Protection of the Environment Operations Act Pts 4.2 – 4.4 and 8.6).
 - (8) Issuing a notice requiring work to be done under various legislation.
 - (9) Starting proceedings in the Land & Environment Court for an order to remedy or restrain a breach of the relevant Act or Regulation (s.673 LG Act; s.123 EP&A Act).
 - (10) Seeking injunctions from the Land & Environment Court or the Supreme Court.
 - (11) Issuing a Court Attendance Notice in the local court.
 - (12) Issuing a penalty infringement notice.
 - (13) Taking proceedings for an offence against the relevant Act or Regulation (s. 691 LG Act, s.125 EP&A Act, Chapter 5 POEO Act).
 - (14) Carrying out the works specified in an order under the LG Act at the cost of the person served with the order (s.678 LG Act).

All enforcement action will be monitored and a decision made in relation to non-compliance within two weeks of any deadline imposed.

TAKING ENFORCEMENT ACTION

From an operational perspective the Council has a range of enforcement options including, but not limited to the following:

- (1) Issuing a verbal warning;
- (2) Issuing a written warning;
- (3) Issuing a “show cause” letter;
- (4) Service of a Notice of Intention to issue an Order;
- (5) Service of written or oral Notices/ Orders/ Directions;
- (6) Issuing of a penalty infringement notice/s;
- (7) Recommendation to instigate legal action;
- (8) Granting an extension of time for compliance;
- (9) Revocation of an approval;
- (10) Removal/ impounding of goods or items;

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(11) Refusal of an application.

When deciding whether to take enforcement action, the Council will consider the circumstances of the case. These include:

1. Has the Council created an estoppel situation? Estoppel is a legal rule which prevents a person from later denying conduct or words which have been relied, and acted, upon by another person to their detriment.
2. Is the breach a technical breach only?
3. When was the unlawful activity carried out and for how long?
4. How has the unlawful activity affected the natural or built environment and the health, safety and amenity of the area?
5. Would consent have been given if it had been sought?
6. Can the breach be easily remedied?
7. Does the person in breach show contrition?
8. Are there any particular circumstances of hardship affecting the complainant or the person the subject of the complaint?
9. Has the person the subject of the complaint received a previous warning or other non coercive approach or has formal legal action been taken?
10. Would an educative approach be more appropriate than a coercive approach?
11. What are the costs and benefits of taking formal enforcement action as opposed to taking informal or no action?
12. Is there sufficient evidence to establish a prima facie case? Is there some doubt over the evidence or offence/s.
13. Has Council staff acted appropriately in investigating the matter and were standard procedures followed including officers having appropriate authorisation and delegation?
14. What are the chances of success if the proposed enforcement action was challenged in court?
15. Is there a draft planning instrument on exhibition that would make the unauthorised use legal?
16. What action would be reasonable and proportionate in this case?
17. Is it in the public interest including there being a reasonable prospect of success?
18. Has the alleged offender been given an opportunity, if appropriate, to provide information as to why enforcement action should not be instituted?
19. Has the alleged offender been advised, if appropriate, that no response to a show cause letter will result in the commencement of enforcement action?
20. What is the likely length and net expense of the legal action.

The Council will ensure that the principles of natural justice are adhered to prior to a decision being made. The following principles will be addressed and implemented by the Council:

- Whoever is the subject of concern must know all the allegations in relation to their action;

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- All parties to the complaint must have the right to be heard;
 - All relevant submissions and evidence must be considered;
 - Matters which are not relevant must not be taken into account;
 - The person who makes the complaint must not determine the matter;
 - The decision-maker must be fair and just.

DELEGATIONS FOR ENFORCEMENT ACTION

Council staff may be delegated to initiate various levels of enforcement action under the following Acts and associated regulations:

- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- Impounding Act 1993
- Companion Animals Act 1998
- Roads Act 1993
- Food Act 2003
- Public Health Act 1991
- Swimming Pools Act 1992
- Contaminated Land Management Act 1997

HISTORY

<u>MINUTE NO:</u>	<u>MEETING DATE:</u>	<u>DESCRIPTION</u>
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Campbell/Lewis
The motion was carried

4.6 APPLICATIONS RECEIVED FOR MONTH OF SEPTEMBER 2009

Received.

6.15pm

DIRECTOR OF COMMUNITY SERVICES

5.1 COMMUNITY TRANSPORT GARAGE COONABARABRAN

133 RESOLVED that Council grant permission for the lodgement of a Development Application for the building of the Community Transport garage on Coonabarabran Community Care office car park site. The colourbond proposed shed is 13.5 m x 6 m with 4 roller doors.

Schmidt/Powell
The motion was carried

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Confidential Items

6.19pm

134 RESOLVED

- (a) that Council go into closed committee to consider the matter of the personal hardship of any resident or ratepayer.
- (b) that pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of Section 10A(2)(b).
- (c) that the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the Local Government Act 1993.

Schmidt/Coe
The motion was carried

6.19pm

Council closed its meeting to the public.

6.27pm

135 RESOLVED Council moved out of closed Council and into open council.

Schmidt/Coe
The motion was carried

The following resolution of Council while the meeting was closed to the public was reported to the meeting by the General Manager:

1C REQUEST FOR COUNCIL TO DEFER SALE OF LAND FOR UNPAID RATES (Assessment No. 02245-0)

136 RESOLVED that Council not accede to the request to pay off outstanding rates and further that the Director Corporate Services advise the ratepayer that only full payment of the arrears would be acceptable to cancel the proposed sale of the property.

Coe/Powell

There being no further business the meeting concluded at 6.29pm.

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CHAIRMAN