



I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Tuesday, 22 March 2022

Time: 1.00pm

**Location: Narrabri Shire Council Chambers
46-48 Maitland Street
Narrabri**

AGENDA

Ordinary Council Meeting 22 March 2022

**Stewart Todd
GENERAL MANAGER**

PUBLIC FORUM (held outside formal Council Meeting)

The Council may hold a public forum prior to each Ordinary Meeting of the Council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting (listed on the Agenda).

Public forums may also be held prior to Extraordinary Council Meetings and meetings of committees of the Council.

Public forums are to be chaired by the mayor or their nominee.

Request to Speak in the Public Forum

To speak at a public forum, a person must first make an application to the Council in the approved form. Applications to speak at the public forum must be received by 5pm on the working day before the date on which the public forum is to be held and must identify the item of business on the agenda of the Council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.

Approved speakers at the public forum are to register with the Council any written, visual or audio material to be presented in support of their address to the Council, and to identify any equipment needs at 5pm on the working day before the Public Forum.

The General Manager or their delegate may refuse to allow such material to be presented.

A person may apply to speak on no more than 2 items of business on the agenda of the Council Meeting.

Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.

The General Manager or their delegate may refuse an application to speak at a public forum.

No more than three (3) speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the Council Meeting.

If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.

Each speaker will be allowed three (3) minutes to address the Council. This time is to be strictly enforced by the Chairperson.

The Chairperson of the meeting can grant one extension of up to a maximum of two (2) minutes, should further information, be considered to be important to the Council. This is solely at the discretion of the Chair.

Speakers at public forums must not digress from their nominated item on the agenda. If a speaker digresses to irrelevant matters, the Chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a Public Forum. Questions put to a speaker must be direct, succinct and without argument. Debate will not be permitted by the speaker, Councillors or staff.

Speakers are under no obligation to answer a question. Answers by the speaker, to each question are to be limited to three (3) minutes.

Speakers at public forums cannot ask questions of the Council, Councillors or Council staff.

The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to 5 minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.

Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.

The “*Request to Speak in Public Forum*”, at an Ordinary Council Meeting, can be obtained, from Council’s Administration Office, or by downloading it from Council’s website at:

<http://www.narrabri.nsw.gov.au/speaking-at-public-forum-1232.html>



USE OF MOBILE PHONES AND UNAUTHORISED RECORDING OF MEETINGS

Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

(As per Council’s Code of Meeting Practice)

A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the Council.

(As per Council’s Code of Meeting Practice)

AUDIO RECORDING NOTICE

Council advises that this Meeting will be recorded for the purpose of webcasting, and made available on the Internet. As such, all those present should refrain from making any defamatory statements. It is requested that Councillors within the duration of the Meeting, limit discussions to only the business on the agenda and what is permissible under our Code of Meeting Practice.

(As per Council’s Code of Meeting Practice)



Mayor
Cr Ron Campbell



Deputy Mayor
Cr Cathy Redding



Cr Rohan Boehm



Cr Robert Browning



Cr John Clements



Cr Brett Dickinson



Cr Greg Lamont



Cr Lisa Richardson



Cr Darrell Tiemens



General Manager
Mr Stewart Todd



Director
Infrastructure Delivery
Mrs Eloise Chaplain



Director Corporate &
Community Services
Mr Lindsay Mason



Director Planning, Strategy
& People
Mr Andrew Brown

Corporate values



Integrity

Ensuring transparency and honesty in all our activities.



Leadership

Providing guidance and direction to our community and our people.



Customer Focus

Delivering prompt, courteous and helpful services and being responsive to the community's changing needs.



Accountability

Accepting our responsibility for the provision of quality services and information.



Respect

Treating everyone with courtesy, dignity and fairness.



Excellence

Being recognised for providing services, programs and information which consistently meet and exceeds standards.

Strategic direction

OUR VISION

A strong and vibrant regional growth centre providing a quality living environment for the entire Shire community.



Theme 1: OUR SOCIETY

Strategic Direction 1: Safe, Inclusive and Connected Community

A safe, supportive community where everyone feels welcomed, valued and connected.



Theme 2: OUR ENVIRONMENT

Strategic Direction 2: Environmentally Sustainable and Productive Shire

Maintaining a healthy balance between our natural and built environments.



Theme 3: OUR ECONOMY

Strategic Direction 3: Progressive and Diverse Economy

A strong, diverse economy that attracts, retains and inspires business, industry and tourism growth.



Theme 4: OUR CIVIC LEADERSHIP

Strategic Direction 4: Collaborative and Proactive Leadership

Working pro-actively together to achieve our shared vision with strong strategic direction.

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1 OPENING PRAYER BY A MEMBER OF THE NARRABRI MINISTER'S FRATERNAL

Members and officers are asked to be upstanding for the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

I'd like to begin by acknowledging the Traditional Owners of country throughout Australia, and in particular the Gomeroi People of the Kamilaroi Nation, and recognise their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

3 RECOGNITION OF SERVICE MEN & WOMEN

Council acknowledges the sacrifice made by Australian service men and women, in particular those who gave their lives in defence of the freedom we enjoy today.

4 APOLOGIES/GRANTING OF LEAVE OF ABSENCES

5 DECLARATION OF PECUNIARY AND NON- PECUNIARY INTERESTS

Councillors are reminded of their obligation to declare their interest in any matters listed before them.

In considering your interest, you are reminded to include pecuniary, non-pecuniary and conflicts of interest as well as any other interest you perceive or may be perceived of you.

Councillors may declare an interest at the commencement of the meeting, or alternatively at any time during the meeting should any issue progress or arise that would warrant a declaration.

Councillors must state their reasons in declaring any type of interest.

6 ITEMS TO BE CONSIDERED IN THE CONFIDENTIAL (PUBLIC EXCLUDED) MEETING

Extract from Council's Code of Meeting Practice:

14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

Grounds on which meetings can be closed to the public

14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

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

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

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

The following matters will be considered in the Closed (Public Excluded) Meeting:

- 14.1 BP 65 Cooma Road - Finalisation of historical land administration matter
- 14.2 Draft Master Inland Rail Development Agreement (MIRDA)
- 14.3 Narrabri Underground Voluntary Planning Agreement (VPA) Update
- 14.4 Log of Auto-Archive access
- 14.5 Municipal Waste Collection Contract post September 2023
- 14.6 Notice of Motion - NSC at LODER

7 PRESENTATIONS

Presentation requests received to date:

Nil

8 CONFIRMATION OF MINUTES

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Narrabri Shire Council held on 22 February 2022 comprising Minute Nos 021/2022 to 049/2022 as circularised be confirmed and signed as a correct record by the Mayor.

**MINUTES OF NARRABRI SHIRE COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE NARRABRI SHIRE COUNCIL CHAMBERS, 46-48 MAITLAND STREET, NARRABRI
ON TUESDAY, 22 FEBRUARY 2022 AT 1.00PM**

PRESENT: Cr Catherine Redding, Cr Rohan Boehm, Cr Robert Browning, Cr John Clements, Cr Brett Dickinson, Cr Greg Lamont, , Cr Lisa Richardson, Cr Darrell Tiemens

IN ATTENDANCE: Stewart Todd (General Manager), Lindsay Mason (Director Corporate and Community Services), Andrew Brown (Director Planning, Strategy and People), Tim McClellan (Manager Financial Services), Stevi Hogarth (Minute Clerk)

Deputy Mayor Cr Redding assumed the Chair of the Meeting in the absence of the Mayor.

Proceedings of the meeting commenced at 1.03 pm.

1 OPENING PRAYER BY A MEMBER OF THE NARRABRI MINISTER'S FRATERNAL

Members and officers were upstanding for the opening prayer by Rev Keith Bates of New Life Christian Fellowship Narrabri, in association with the Narrabri Ministers Fraternal.

2 ACKNOWLEDGEMENT OF COUNTRY

The Chair acknowledged the Traditional Owners of the land on which the Council met, the Kamilaroi people, and the Council paid its respects to Elders past, present and emerging.

3 RECOGNITION OF SERVICE MEN & WOMEN

Council acknowledged the sacrifice made by Australian service men and women, in particular those who gave their lives in defence of the freedom we enjoy today.

4 APOLOGIES/GRANTING OF LEAVE OF ABSENCES

MINUTE 021/2022

Moved: Cr John Clements Seconded: Cr Brett Dickinson

- 1. That Leave of Absence be granted to Mayor Cr Ron Campbell for the period 22 February 2022 to 1 March 2022 inclusive.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

5 DECLARATION OF PECUNIARY AND NON- PECUNIARY INTERESTS

Nil.

6 ITEMS TO BE CONSIDERED IN THE CONFIDENTIAL (PUBLIC EXCLUDED) MEETING

MOTION**MINUTE 022/2022**

Moved: Cr Darrell Tiemens Seconded: Cr Greg Lamont

1. The following matters will be considered in the Closed (Public Excluded) Meeting:
 - a. Item 14.1 Renewal of Road Reserve Licence - Jonathon Phelps and Wendy Phelps (Havana Ag).

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

7 PRESENTATIONS

Council received the following presentation:

1. Audited Annual Financial Statements – 2020/2021
Paul Cornall, Audit Partner – Forsyths

8 CONFIRMATION OF MINUTES

MINUTE 023/2022

Moved: Cr Lisa Richardson Seconded: Cr Darrell Tiemens

1. That the minutes of the Ordinary Meeting of the Narrabri Shire Council held on 23 November 2021 comprising Minute Nos 189/2021 to 213/2021 as circularised be confirmed and signed as a correct record by the Mayor.

In Favour: Crs Catherine Redding, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Cr Rohan Boehm

CARRIED 7/1

MINUTE 024/2022

Moved: Cr John Clements Seconded: Cr Darrell Tiemens

- 1. That the minutes of the Extraordinary Council Meeting of the Narrabri Shire Council held on 3 December 2021 comprising Minute Nos 214/2021 to 215/2021 as circularised be confirmed and signed as a correct record by the Mayor.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 025/2022

Moved: Cr John Clements Seconded: Cr Rohan Boehm

- 1. That the minutes of Ordinary Meeting of the Narrabri Shire Council held on 11 January 2022 comprising Minute Nos 001/2022 to 008/2022 as circularised be confirmed and signed as a correct record by the Mayor with the following amendments:**
 - a. Chairpersonship amended to Chair on page 1 of the Minute document.**
- 2. That the minutes of Extraordinary Council Meeting of the Narrabri Shire Council held on 15 February 2022 comprising Minute Nos 009/2022 to 020/2022 as circularised be confirmed and signed as a correct record by the Mayor.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

9 MAYORAL MINUTE

9.1 MAYORAL MINUTE - MAYORAL APPOINTMENTS FOR FEBRUARY 2022**MINUTE 026/2022**

Moved: Cr Catherine Redding Seconded: Cr Greg Lamont

- 1. That Council note the Mayoral Appointments for the period up to 11 February 2022.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

10 OUR SOCIETY

Nil reports.

11 OUR ENVIRONMENT

11.1 DRAFT NEW ENGLAND NORTH WEST REGIONAL PLAN 2041**MINUTE 027/2022**

Moved: Cr Rohan Boehm Seconded: Cr Darrell Tiemens

- 1. That Council make a submission to the NSW Department of Planning and Environment on the North West Regional Plan 2041 in accordance with the draft attached to this report.**
- 2. That Council in its submission place additional emphasis on resourcing, policy integration and outcomes.**

In Favour: Crs Catherine Redding, Greg Lamont, Robert Browning, John Clements, Lisa Richardson, Rohan Boehm, Brett Dickinson and Darrell Tiemens

Against: Nil

CARRIED 8/0

12 OUR ECONOMY

Nil reports.

13 OUR CIVIC LEADERSHIP**13.1 ANNUAL APPOINTMENT OF COUNCIL DELEGATES****MINUTE 028/2022**

Moved: Cr Greg Lamont Seconded: Cr John Clements

- 1. That Council move into Committee of the Whole to discuss the annual appointments of Council delegates.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 029/2022

Moved: Cr Darrell Tiemens Seconded: Cr Rohan Boehm

- 1. That Council move out of Committee of the Whole.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 030/2022

Moved: Cr John Clements Seconded: Cr Greg Lamont

That Council adopt the following delegate appointments to the various external bodies or organisations requesting or requiring Council representation up until the Ordinary Council Meeting to be held on 27 September 2022:

<i>Name of Body/Organisation</i>	<i>Details</i>	<i>2022 Delegates</i>
<i>Central Northern Libraries Committee</i>	<i>General meetings held throughout the year, agendas are sent in</i>	<i>Delegate: Cr Redding Alternate: Cr Richardson</i>
<i>Joint Regional Planning Panel (JRPP)</i>	<i>As required.</i>	<i>Delegate: Cr Clements Delegate: Cr Boehm Alternate: Cr Browning</i>
<i>Leards Forest Environmental Trust Committee</i>		<i>Delegate: Cr Richardson Alternate: Cr Dickinson</i>
<i>Lillian Hulbert Memorial Prize Committee</i>	<i>Held when the Prize is open.</i>	<i>Delegate: Mayor</i>

<i>Myall Creek Memorial Committee</i>		<i>Delegate: Cr Redding Delegate: Cr Lamont Alternate: Cr Boehm</i>
<i>Namoi Water</i>	<i>Agenda and Minutes are sent in</i>	<i>Delegate: Cr Clements Alternate: Cr Redding</i>
<i>Narrabri Bush Fire Management Committee</i>	<i>Two a year, one before bush fire season and one after bush fire season</i>	<i>Delegate: Cr Tiemens Alternate: Cr Dickinson</i>
<i>Narrabri Hospital Advisory Committee</i>	<i>Held every month, second month at 2pm, Narrabri Hospital</i>	<i>Delegate: Cr Redding Alternate: Cr Tiemens</i>
<i>Wee Waa Hospital Advisory Committee</i>	<i>Held every second month, first Thursday of the month at 1pm, Wee Waa Hospital</i>	<i>Delegate: Cr Dickinson Alternate: Cr Clements</i>
<i>Narrabri Gas Project Water Technical Advisory Group</i>	<i>As required.</i>	<i>Delegate: Cr Redding Alternate: Cr Clements</i>

Name of Body/Organisation	Details	2022 Delegates
<i>Boggabri Coal Community Consultation Committee</i>	<i>Quarterly meetings, onsite, will send agenda and minutes in</i>	<i>Delegate: Cr Redding Alternate: Cr Clements</i>
<i>Maules Creek Coal Mine Community Consultative Committee</i>	<i>Quarterly meetings</i>	<i>Delegate: Cr Richardson Alternate: Cr Dickinson</i>
<i>Narrabri Coal Mine Community Consultative Committee</i>	<i>Quarterly meetings, first Tuesday of the month, 4pm onsite.</i>	<i>Delegate: Cr Redding Alternate: Cr Clements</i>
<i>Narrabri Gas Project Community Consultative Committee</i>	<i>Monthly meetings; second Tuesday of the month</i>	<i>Delegate: Cr Browning Delegate: Cr Redding Alternate: Cr Dickinson</i>
<i>Tarrowonga Coal Mine Community Consultative Committee</i>	<i>Quarterly meetings</i>	<i>Delegate: Cr Tiemens Alternate: Cr Redding</i>
<i>Vickery Coal Mine Community Consultative Committee</i>	<i>Quarterly meetings</i>	<i>Delegate: Cr Redding Alternate: Cr Tiemens</i>
<i>Western Slopes Pipeline Community Consultative Committee</i>		<i>Delegate: Cr Tiemens Alternate: Cr Dickinson</i>
<i>Inland Rail N2N</i>		<i>Delegate: Cr Lamont Alternate: Cr Browning</i>
<i>Whitehaven Coal Sponsorship Committee</i>		<i>Delegate: Cr Tiemens Alternate: Cr Dickinson</i>

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Cr Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.2 REVIEW OF ORDINARY COUNCIL MEETING DATES AND TIMES 2021/2022

MINUTE 031/2022

Moved: Cr Rohan Boehm Seconded: Cr Darrell Tiemens

- 1. That Council set the ensuing 9-month schedule for Ordinary Council Meetings, for the remainder of 2022, being:**
 - a. Tuesday 22 February 2022**
 - b. Tuesday 22 March 2022**
 - c. Tuesday 26 April 2022 (Avoids Easter - 18 April 2022)**
 - d. Tuesday 24 May 2022**
 - e. Tuesday 28 June 2022**
 - f. Tuesday 26 July 2022**
 - g. Tuesday 23 August 2022**
 - h. Tuesday 27 September 2022**

This brings the meeting dates back in line with normal September election cycles.

- 2. That Council set the commencement time for Ordinary Council Meetings to be 1:00pm.**

In Favour: Crs Catherine Redding, Greg Lamont, Robert Browning, John Clements, Lisa Richardson, Rohan Boehm, Brett Dickinson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.3 ANNUAL APPOINTMENT TO COUNCIL COMMITTEES**MINUTE 032/2022**

Moved: Cr Rohan Boehm Seconded: Cr Brett Dickinson

- 1. That Council move into Committee of the Whole to discuss the annual appointments to Council committees.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 033/2022

Moved: Cr Darrell Tiemens Seconded: Cr Lisa Richardson

- 1. That Council move out of Committee of the Whole.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 034/2022

Moved: Cr John Clements Seconded: Cr Rohan Boehm

That Council adopt the following delegate appointments to the internal committees up until the Ordinary Council Meeting to be held on 27 September 2022:

<i>Advisory Committee</i>	<i>Details</i>	<i>2022 Delegates</i>
Access and Inclusion Committee	As required	<i>Member: Cr Redding</i> <i>Member: Cr Richardson</i>
Crime Prevention Advisory Committee	Quarterly	<i>Member: Cr Redding</i> <i>Member: Cr Richardson</i>
Floodplain Management Advisory Committee	As required	<i>Member: Cr Dickinson</i> <i>Member: Cr Clements</i> <i>Member: Cr Browning</i>

Narrabri Airport Advisory Committee	Minimum twice per year	<i>Member: Cr Tiemens</i> <i>Member: Cr Boehm</i>
Saleyards Advisory Committee	Minimum twice per year	<i>Member: Cr Tiemens</i> <i>Member: Cr Dickinson</i>
The Crossing Theatre Advisory Committee	Minimum twice per year	<i>Member: Cr Redding</i> <i>Member: Cr Tiemens</i>

<i>Special Purpose Committee</i>	<i>Details</i>	<i>2022 Member(s)</i>
<i>Audit, Risk & Improvement Committee</i>	<i>Quarterly</i>	<i>Member: Cr Lamont</i>
<i>Local Traffic Committee</i>	<i>As required</i>	<i>Member: Cr Dickinson</i> <i>Alternate: Cr Browning</i>

In Favour: Crs Catherine Redding, Greg Lamont, Robert Browning, John Clements, Lisa Richardson, Rohan Boehm, Brett Dickinson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.4 DELEGATES REPORT - NARRABRI MINE COMMUNITY CONSULTATIVE COMMITTEE MEETING - 15 DECEMBER 2021

MINUTE 035/2022

Moved: Cr Catherine Redding Seconded: Cr Rohan Boehm

- 1. That Council note the Delegates Report from the Narrabri Mine Community Consultative Committee Meeting held on 15 December 2021.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.5 DELIVERY PROGRAM 6 MONTHLY PROGRESS REPORT - DECEMBER 2021**MINUTE 036/2022**

Moved: Cr John Clements Seconded: Cr Darrell Tiemens

- 1. That Council adopt the Delivery Program 6 Monthly Progress Report, as attached, detailing Council's progress in meeting its objectives, strategies and measures up to the December 2021 period.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.6 OPERATIONAL AND SERVICE PLAN QUARTERLY REPORT - DECEMBER 2021**MINUTE 037/2022**

Moved: Cr Rohan Boehm Seconded: Cr John Clements

- 1. That Council adopt the December 2021 Quarterly Operational and Service Plan Report, as attached, detailing Council's progress in meeting its actions, capital works and key performance measures.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.7 INVESTMENT REPORT - NOVEMBER 2021**MINUTE 038/2022**

Moved: Cr Brett Dickinson Seconded: Cr Darrell Tiemens

- 1. That Council note the Investment Report for November 2021.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.8 INVESTMENT REPORT - DECEMBER 2021**MINUTE 039/2022**

Moved: Cr Brett Dickinson Seconded: Cr Darrell Tiemens

1. That Council note the Investment Report for December 2021.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0**13.9 INVESTMENT REPORT - JANUARY 2022****MINUTE 040/2022**

Moved: Cr Brett Dickinson Seconded: Cr Darrell Tiemens

1. That Council note the Investment Report for January 2022.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0**13.10 QUARTERLY BUDGET REVIEW STATEMENT - DECEMBER 2021****MINUTE 041/2022**

Moved: Cr Brett Dickinson Seconded: Cr Greg Lamont

1. That Council adopt the Quarterly Budget Review Statement for the period ended 31 December 2021 as the revised Budget estimates for the year ended 30 June 2022 and the Operational Plan and Capital Works Plan be amended accordingly.**CARRIED**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

13.11 COUNCIL POLICY ON PUBLIC INTEREST DISCLOSURES BY STAFF, FORMER STAFF, COMMUNITY, CURRENT AND FORMER COUNCILLORS.**MINUTE 042/2022**

Moved: Cr Rohan Boehm Seconded: Cr John Clements

- 1. That Council note the report relating to the Policy on Public Interest Disclosures.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 043/2022

Moved: Cr John Clements Seconded: Cr Greg Lamont

- 1. That Council recommit Item 13.1 to amend the delegate for the Maules Creek Community Consultative Committee.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 044/2022

Moved: Cr John Clements Seconded: Cr Greg Lamont

- 1. That Council adopt the following delegate appointments to the Maules Creek Coal Mine Community Consultative Committee up until the Ordinary Council Meeting to be held on 27 September 2022:**

<i>Name of Body/Organisation</i>	<i>Details</i>	<i>2022 Delegates</i>
<i>Maules Creek Coal Mine Community Consultative Committee</i>	<i>Quarterly meetings</i>	<i>Delegate: Cr Dickinson Alternate: Cr Browning</i>

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

NOTE: This resolution (044/2022) for appointments to the Maules Creek Coal Mine Community Consultative Committee only, supercedes the appointments made in resolution 030/2022.

SUSPENSION OF STANDING ORDERS**MINUTE 045/2022**

Moved: Cr Greg Lamont Seconded: Cr Lisa Richardson

- 1. That Council suspend standing orders for a break at 3.35pm.**

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

RESUMPTION OF STANDING ORDERS**MINUTE 046/2022**

Moved: Cr John Clements Seconded: Cr Brett Dickinson

1. That Council resume standing orders at 3:46pm.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

14 CONFIDENTIAL (CLOSED COUNCIL) MEETING

MINUTE 047/2022

Moved: Cr Lisa Richardson Seconded: Cr Greg Lamont

1. That at 3.46pm Council move into Closed (Public Excluded) Meeting of Council and that the press and members of the public be asked to leave the room whilst Council considers the following items:**14.1 Renewal of Road Reserve Licence - Jonathon Phelps and Wendy Phelps (Havana Ag).**

This matter is considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

MINUTE 048/2022

Moved: Cr Lisa Richardson Seconded: Cr John Clements

1. That at 3.53pm Council move out of Closed (Public Excluded) Meeting and that the resolutions from the Closed (Public Excluded) Meeting be read out to those present by the Chair of the Meeting or their nominee.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

14.1 RENEWAL OF ROAD RESERVE LICENCE - JONATHON PHELPS AND WENDY PHELPS (HAVANA AG).**MINUTE 049/2022**

Moved: Cr Darrell Tiemens Seconded: Cr Rohan Boehm

1. That Council enter into a rental licence agreement with Jonathon Phelps and Wendy Phelps (Havana Ag) for a term of 10 years commencing with an annual licence fee of \$700.00 plus GST, with annual adjustments for CPI. That the agreement can be executed by the Mayor and General Manager, with the use of Councils seal, if required.

In Favour: Crs Catherine Redding, Rohan Boehm, Robert Browning, John Clements, Brett Dickinson, Greg Lamont, Lisa Richardson and Darrell Tiemens

Against: Nil

CARRIED 8/0

15 MEETING CLOSED

The Meeting closed at 3.54pm

The minutes of this meeting are scheduled to be confirmed at the Ordinary Council Meeting to be held on 22 March 2022.

.....
CHAIRPERSON

9 MAYORAL MINUTE

9.1 MAYORAL MINUTE - MAYORAL APPOINTMENTS FOR FEBRUARY/MARCH 2022**Responsible Officer:** Ron Campbell, Mayor**Author:** Ron Campbell, Mayor**Attachments:** Nil**RECOMMENDATION**

- 1. That Council note the Mayoral Appointments for the period up to 11 March 2022.**

MAYORAL MINUTE

For the information of Councillors, I provide details of my Mayoral appointments and attendances between the following dates 14 February 2022 – 11 March 2022:

Tuesday 15 February 2022

- Attended the Councillor Induction session with Councillors and Management.
- Attended February Extraordinary Council Meeting with Councillors and Management.

Wednesday 16 February 2022

- Attended via virtual meeting, LGNSW Mayoral Meeting with other Mayors and LGNSW staff in attendance.

Monday 7 March 2022

- Attended via virtual meeting, New England Joint Organisation (NEJO) board meeting with other Mayors and General Managers from the joint organisation in attendance.

Friday 11 March 2022

- Attended Country Mayors Meeting in Sydney with General Manager with other NSW Country Mayors and General Managers.

10 OUR SOCIETY



THEME 1: OUR SOCIETY

STRATEGIC DIRECTION 1: SAFE, INCLUSIVE AND CONNECTED COMMUNITY

By 2027, we will provide a safe, supportive community where everyone feels welcomes, valued and connected.

COMMUNITY ENGAGEMENT

Through extensive community engagement, the Narrabri Shire community identified several social priority areas to be actioned over the 2017 - 2018 financial year.

COMMUNITY SERVICES

Current services provided within the Narrabri Shire community include:

- Community development
- Community health and safety
- Community arts, events and entertainment
- Community care services and transport
- Parks, open spaces and sporting facilities
- Children, youth and aged care services
- Disability access services
- Library services

COMMUNITY OUTCOMES

In partnership with the community, government and non-government agencies, the Operational Plan will work towards achieving the following social strategic outcomes:

- Increased community arts, events and entertainment
- Reduction in anti-social behaviour and public offences
- Improved community accessibility and inclusiveness
- Improved sport and recreational services and facilities
- Improved educational services and learning pathways
- Improved community health and support services

10.1 NOTICE OF MOTION - OUTDOOR CONTRACTOR VACCINATION STATUS**Attachments: Nil**

I, Councillor John Clements, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

Outdoor contractors to the Narrabri Shire Council not be required to show vaccination status, provided that;

They wear masks when discussing work with relevant Council staff in outdoor settings

That they provide proof of a negative Rapid Antigen Test result (RAT Test) taken prior to entering the council building if they are required to attend and Council indoor setting.

RATIONALE

These contractors work in outdoor settings and rarely need to be indoors in our facilities. I am a supporter of vaccination and am triple vaccinated but equally I accept others have differing views and health concerns re reactions to vaccines.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

Council Management embrace their responsibility to exercise a duty of care for all our workers and contractors. Management recognises the importance of therapeutic vaccinations and other related safety measures as important steps to ensuring a supportive environment for workers and contractors as NSW eases current restrictions and the state (and world) transitions to living with COVID-19.

SafeWork NSW considers vaccination a high order risk control measure against disease. A COVID-19 vaccine is one of the available control measures for COVID-19 - it should be considered in the context of a broad range of control measures to minimise the risk of COVID-19 in workplaces.

Under WHS law, person/s conducting a business of undertaking (PCBUs), usually an employer or business, have a duty to eliminate, or if that is not reasonably practicable, to minimise the risk of exposure to COVID-19 in the workplace. PCBUs must apply a risk management approach (in consultation with workers) to determine the control measures they implement to minimise the risk of exposure to and transmission of COVID-19 in the workplace, so far as is reasonably practicable.

As part of this duty of care, Management considered the risks on mandating that all current and future workers and contractors of Council are fully vaccinated against COVID-19. Management considered the COVID-19 infection rate within our region, the removal of public health orders and the need to ensure we mitigate exposure to our workers and contractors.

The *Work Health and Safety Act 2011* requires that people carrying on a business or undertaking must mitigate risks of harm to workers so far as reasonably practicable. COVID-19, in any of its variations, is a highly contagious and potentially highly severe virus. Medical evidence clearly suggests that the currently approved vaccines are effective at reducing or preventing symptomatic

infection and death. However, they do not entirely prevent transmission, carriage, and/or low-level symptomatic infection. This means that unvaccinated people in the workplace pose a risk to other unvaccinated people in the workplace, as well as vaccinated people in the workplace (albeit to a lesser extent). In turn, they are at a heightened risk themselves. It falls squarely within Council's duty to mitigate risks of harm to require contractors to have been fully vaccinated against COVID-19. This level of risk may fall beyond Council's appetite.

Council workers and contractors, both indoor and outdoor, are often required to be in small spaces with other people (such as inside an office or a vehicle) and are required to work in close proximity to others. Whilst PPE can be used to minimise risk, Management is concerned that an unvaccinated person may unintentionally pass on the virus. This could then have a flow on effect to others including, vulnerable people, community members, family and friends.

As part of this risk consideration, Management consulted with the unions with whom Council staff are members. The United Services Union (USU) fully supported the Management's position and have advised that other Councils within our region have also implemented a vaccination mandate. They noted that they have themselves mandated COVID-19 vaccinations for all USU employees.

Furthermore, vaccination mandates for workers and contractors are commonplace across both the public and private sector on the basis of complying with WHS requirements. This includes, Transport for New South Wales (TfNSW) who requires all workers, including contractors, to be fully vaccinated. This means that any Council worker or contractor engaged by Council to work on a state government road, would be required to comply with this obligation. Accordingly, having some Council contractors who are vaccinated and others who are not vaccinated would add an additional complexity and administrative burden which could result in a reduction in operational capacity.

Management further notes that a report was presented to Council's Consultative Committee meeting held on the 30 November 2021. The Consultative Committee is made up of elected representatives of indoor workers, outdoor workers and union delegates. The committee resolved; "That the Consultative Committee endorse Council's intention to implement a requirement that all current and future staff and contractors of Council be fully vaccinated against COVID-19".

Furthermore, Management has received notification from a delegate on the Consultative Committee of their intention to review the process that ensures all contractors comply with Council's COVID-19 vaccination policy. Accordingly, Management firmly hold the belief that the current position of mandatory vaccinations for workers and contractors is overwhelmingly supported by both the staff and the unions to which they may be members.

As current work health and safety legislation and Council's operating protocol do not differentiate between employees of Council and contractors of Council, Management does not believe there is a clear reason as to why such a distinction should be imposed. Furthermore, a worker or their family may be entitled to workers compensation or civil damages if they contract COVID-19 while at work which results in a serious illness or death. This is particularly a risk where it can be argued that Council has failed to mitigate the risk as far as reasonably practicable.

Furthermore, Councillors are reminded that under section 47 of the *Work Health and Safety Act 2011*, Council **MUST** consult with workers who carry out work for the business or undertaking who are, or are likely to be, directly affected by a matter relating to work health or safety. This consultation would have to occur before any change can take place.

Notwithstanding the above, should Councillors be minded pursue the intent of the motion, Management strongly recommend a report be brought before Council outlining that all relevant consultation has occurred with both employees and contractors and the outcome of such

consultation. Should Councillors wish for this to occur, Management believe it would take approximately 3 months.

11 OUR ENVIRONMENT



THEME 2: OUR ENVIRONMENT

STRATEGIC DIRECTION 2: ENVIRONMENTALLY SUSTAINABLE AND PRODUCTIVE SHIRE

By 2027, we will maintain a healthy balance between our natural and built environments.

COMMUNITY ENGAGEMENT

Through extensive community engagement, the Narrabri Shire community identified several environmental priority areas to be actioned over the 2017 - 2018 financial year.

COMMUNITY SERVICES

Current services provided within the Narrabri Shire community include:

- Waste management and recycling
- Environmental planning
- Planning and development
- Parks and open spaces
- Noxious weeds control
- Floodplain management
- Water and sewer management
- Stormwater management

COMMUNITY OUTCOMES

In partnership with the community, government and non-government agencies, the Operational Plan will work towards achieving the following environmental strategic outcomes:

- Improved air, water and soil quality
- Reduction in domestic and industry waste
- Management of potential impacts from extractive industries
- Improved emergency service provision and resources
- Maintenance of heritage sites for future generation

11.1 AGRITOURISM PLANNING REFORMS

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Donna Ausling, Manager Strategic Planning

Attachments: 1. Preliminary Agritourism Nomination Form [↓](#)

DELIVERY PROGRAM ALIGNMENT

3 Economy

Objective 3.3 Value adding and industry innovation will drive employment

Strategy 3.3.1 Value adding opportunities will be researched and pursued

EXECUTIVE SUMMARY

The draft *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021* has recently been prepared by the NSW Department of Planning and Environment (DPE) which will amend the Standard Instrument LEP.

Final responses to the Standard Instrument LEP Agritourism Nomination are due to DPE by Thursday, 31 March 2022 in the form of a Council resolution to circumvent the need to prepare a standalone Planning Proposal. A State Environmental Planning Policy (SEPP) will then amend the *Narrabri Local Environmental Plan 2012* and is proposed to be made in mid-2022.

RECOMMENDATION

1. That Council authorise the General Manager to correspond with the NSW Department of Planning and Environment advising of Council's intention to participate in the Agritourism initiative and to confirm the Council Officer preliminary advice dated 25 February 2022 in relation to nominated development standards.

BACKGROUND

The draft *Standard Instrument (Local Environmental Plans) Amendment (Agritourism) Order 2021* has recently been prepared by the NSW Department of Planning and Environment (DPE) which will amend the Standard Instrument LEP. The proposed changes in the LEP Order include the following:

- New land use terms for 'Agritourism', 'Farm gate premises' and 'Farm experience premises'.
- Transferring 'Cellar door premises' to become a subset of 'Farm gate premises'.

Council's Strategic Planning Team have reviewed the corresponding Explanation of Intended Effect (EIE) and consider that the proposed changes will provide farmers and agricultural producers with additional potential income sources to improve resilience. Furthermore, it is anticipated that the legislative amendments will assist the agricultural sector to better recover from natural disasters in addition to the economic impacts of the COVID-19 pandemic. Opportunities for sustainable tourism outline in the *New England North West Regional Plan* will also be facilitated.

At the invitation of the DPE, Council's Strategic Planning Team have submitted a preliminary response outlining interest in participating in the reform program. This initial representation nominated the potential adoption of the optional clauses and specification of the land use ones to

permit the new land uses in the *Narrabri Local Environmental Plan 2012* ('the NLEP'). A copy of the preliminary response lodged with the DPE is included with this report.

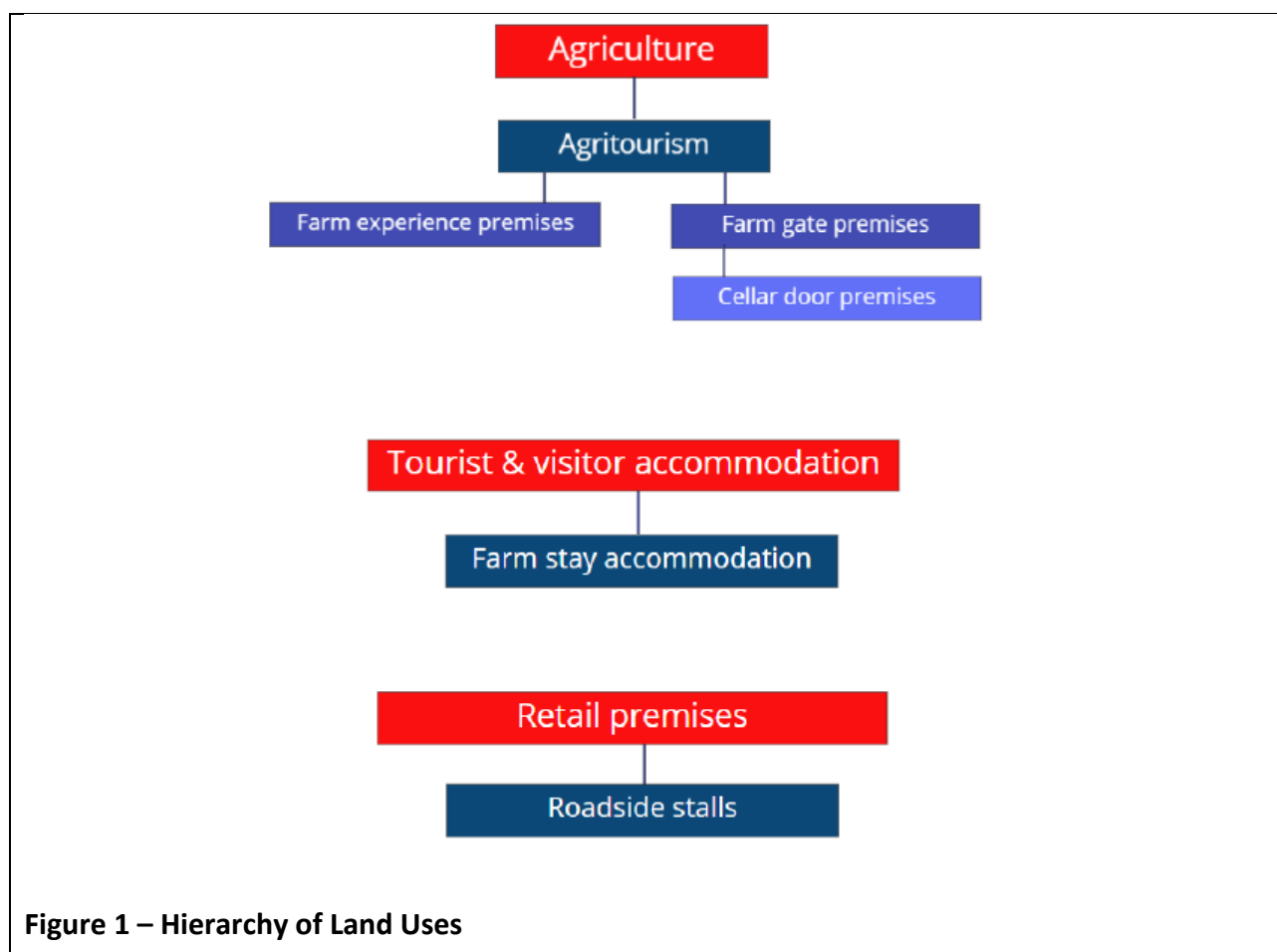
Final responses to the Standard Instrument LEP Agritourism Nomination are due to the DPE by Thursday, 31 March 2022 in the form of a Council resolution to circumvent the need to prepare a standalone Planning Proposal. A SEPP will then amend the NLEP is proposed to be made in mid-2022.

CURRENT SITUATION

A summary of the key elements of the proposed changes is provided, as follows:

Agritourism Permissibility

The LEP Order includes new agritourism land uses, as detailed in Figure 1 below:



Agritourism Land Use, Farm Gate Premises and Farm Experience Premises

Agritourism, and the subsets of this use, farm gate premises and farm experience premises, will sit under the parent term of 'Agriculture' and will be permissible in land use zones where agriculture is permissible.

Farm Gate Accommodation and Roadside Stalls

Under the proposal, farm stay accommodation and roadside stalls will remain under their existing parent terms and continue to be permitted where tourist and visitor accommodation and retail premises, respectively are permitted, or where the use is specified as permissible in a land use zone under the NLEP.

Cellar Door Premises

Cellar door premises will continue to be permitted in land use zones in which they are currently permissible and will also be permitted where agriculture, agritourism or farm gate premises are permitted under the NLEP.

Agritourism Definitions

Table 1 below details applicable changes to the definition of farm stay accommodation, farm experience premises and farm gate premises.

Land Use	Definition Changes	Commentary
Farm stay accommodation	Now includes moveable dwellings as defined in the SILEP to facilitate small-scale camping on farms.	A section 68 approval under the <i>Local Government Act 1993</i> will be required to install a moveable dwelling on a farm unless the Council's local approvals policy allows the activity without approval.
Farm experience premises	Farm events has been amended to farm experience premises. Farm experience premises now includes farm field days.	The amendment to the term is in recognition that guests will visit a farm to take part in tourist and recreational activities and to experience the features of the farm and farm life. The DPE is proposing to prepare model DCP clauses to assist Councils where further parameters for farm experience premises are required.
Farm gate premises	Roadside stalls will remain as a form of retail premises and will not become a form of farm gate premises.	This approach intends to ensure that roadside stalls remain permissible in zones other than rural zones. Exempt development provisions are being prepared by the DPE for roadside stalls in rural zones.
	Clarifies that animal processing is not permitted as part of farm gate premises.	Animal processing has not been included by the DPE as a form of agritourism as it has potentially significant impacts and less potential to generate tourism. The processing of other agricultural produce can be undertaken under the definition.

Table 1 – Summary of changes to definitions

Principal Use of the Land

The LEP Order will amend the existing definition of farm stay accommodation. It will include in the new definitions for farm gate premises and farm experience premises a requirement that these uses must be undertaken on land that is a primary production business as defined under the *Income Tax Assessment Act 1997* (Cth), or which is rated 'farmland' by Council. This approach is intended to give applicants two options to demonstrate that their development will be on land used for commercial farming and not a hobby or recreational farm.

For farm experience premises and farm gate premises, under the changes the relevant use must also be ancillary to the farm.

Poultry and Pig Farm Setbacks

The Order will amend clause 5.18 of the SILEP to increase setback requirements for poultry and pig farms permitted without consent, to mitigate biosecurity risks. The development consent threshold for poultry farms will remain at 1,000 birds.

Optional Clauses

A series of optional clauses have been provided by the DPE. These clauses are intended to recognise the importance of local controls and enables Council to apply numerical standards that best fit the local planning context. **Table 2** details the numerical standards identified in the preliminary representation to the DPE and applied rationale where applicable:

Type of Development	Proposed Standard	NSC Recommended Standard	Commentary
Farm stay accommodation building – maximum guests	3 times the number of bedrooms in clause 5.4(5) or 20 guests	As proposed by DPE.	This will provide a maximum cap on guests to ensure that farm stays are small scale. Council can reduce the number of guests for a development through a condition of development consent.
Farm stay accommodation building – maximum gross floor area (GFA) for a building	A number Council nominates which is greater than 60m ²	120m ²	The proposed standard has been nominated reflective of the local strategic planning context and recognising local infrastructure constraints and limitations. Note also that Council can reduce the GFA for a development through a condition of development consent. Changes are proposed to the Codes SEPP to allow buildings for farm stay accommodation up to 60m ² as complying development.
Farm stay accommodation – GFA exclusion for dwellings	The maximum GFA will not apply to a change of use to an existing dwelling	As proposed by DPE.	This will allow a dwelling house which is larger than 60m ² to be converted into farm stay accommodation without the need for substantial work to limit its size.
Farm stay accommodation – maximum number of days for guests in a moveable dwelling	The maximum number	As proposed by DPE	The DPE are intending to prepare model conditions of consent for farm stay accommodation, farm experience premises and farm gate premises that Council can elect to adopt. This is intended to complement model conditions currently being prepared by the DPE for other types of development.
Farm stay accommodation – dwelling entitlement	Farm stay accommodation will be required to be on: (i) The same lot as an existing lawful dwelling house, or (ii) On a lot for which a minimum size is shown for a dwelling house on the Council's Lot Size Map and the size of which is not less than	As proposed by DPE.	This clause is intended to prevent the fragmentation of agricultural land.

	the minimum size shown		
Farm gate premises – maximum gross floor area	A number Council nominates which is no greater than 200m ² .	100m ²	The proposed standard has been nominated reflective of the local strategic planning context and recognising local infrastructure constraints and limitations. Caps have been placed on the maximum floor area and number of guests for farm gate premises to ensure they remain small scale.
Table 2 – Summary of Changes to Development Standards			

Council's Strategic Planning Team have recommended a series of development standards cognisant of the local planning framework. These are detailed in column 3 within the above table. It is recommended that Council endorse these elements and provide confirmation in writing to NSW DPE by the prescribed deadline of 31 March 2022.

FINANCIAL IMPLICATIONS

Participation in the reform program at this time will avoid the need to prepare and submit a detailed Planning Proposal at Council's own cost.

STATUTORY AND POLICY IMPLICATIONS

Detailed in the body of the Report. The proposal will entail an amendment to the *Narrabri Local Environmental Plan 2012*.

CONSULTATION

External Consultation

Nil.

Internal Consultation

- Statutory Planning Team.
- Manager Economic Development.
- Manager Tourism & Community Development.

Donna Ausling

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Friday, 25 February 2022 9:47 AM
To: DPE Agritourism Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: Agritourism Nomination Form

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 25/02/2022 - 09:29

Submitted by: Anonymous

Submitted values are:

LEP Changes

LEP Changes

Adopt the LEP order optional clause for farm stay accommodation , Adopt the LEP order optional clause for farm gate premises ,
 Nominate zones to permit or prohibit new land uses for agritourism, farm experience premises, farm gate premises

Farm stay accommodation

Farm stay accommodation optional clause

In which LEP/s will Council adopt the optional clause for farm stay accommodation?
 Narrabri Local Environmental Plan 2012

Provide any additional objectives for the farm stay accommodation optional clause.
 N/A

Provide the maximum gross floor area for a building used to accommodate guests .
 120

Provide key reasons for the maximum gross floor area specified.

To ensure the scale of the development is in line with Council's strategic planning documents or existing controls, To mitigate potential noise impacts on neighbouring properties, To limit pressure on existing infrastructure e.g. roads, onsite wastewater and sewerage systems

Provide key reasons for the maximum number of guests specified.

To ensure the scale of the use is in line with Council's strategic planning documents or existing controls, To mitigate potential noise impacts on neighbouring properties, To limit pressure on existing infrastructure e.g. roads, onsite wastewater and sewerage systems

Provide key reasons for the maximum number of moveable dwellings specified:

To ensure the scale of the use is in line with Council's strategic planning documents or existing controls, To mitigate potential noise impacts on neighbouring properties, To limit pressure on existing infrastructure e.g. roads, onsite wastewater and sewerage systems

Farm gate premises

Farm gate premises optional clause

In which LEP/s will Council adopt the optional clause for farm gate premises?
 Narrabri LEP

Provide the maximum gross floor area for a farm gate premises building?

100

Provide key reasons for the maximum gross floor area specified.

To ensure the scale of the development is in line with Council's strategic planning documents or existing controls, To minimise impacts on the environment and local scenic character, To ensure farm gate premises remain ancillary to the principal use of the land

Provide key reasons for the maximum visitors specified:

To ensure the scale of the development is in line with Council's strategic planning documents or existing controls, To mitigate potential noise impacts on neighbouring properties, To limit pressure on existing infrastructure e.g. roads, onsite wastewater and sewage systems

Zones for new uses

Zones

Please specify the LEP for which zone changes will apply.

Narrabri LEP

Please indicate whether Council seeks to permit agritourism in the following zones:

- **RU1 Primary Production:** Permit with consent
- **RU2 Rural Landscape:** Prohibit
- **RU3 Forestry:** Prohibit
- **RU4 Primary Production Small Lots:** Prohibit
- **RU5 Village:** Permit with consent
- **RU6 Transition:** Prohibit
- **E3 Environmental Management :** Prohibit
- **E4 Environmental Living :** Prohibit

Please indicate whether Council seeks to permit farm experience premises in the following zones:

- **RU1 Primary Production:** Permit without consent
- **RU2 Rural Landscape:** Prohibit
- **RU3 Forestry:** Prohibit
- **RU4 Primary Production Small Lots:** Permit with consent
- **RU5 Village:** Permit with consent
- **RU6 Transition:** Prohibit
- **E3 Environmental Management :** Prohibit
- **E4 Environmental Living :** Prohibit

Please indicate whether Council seeks to permit farm gate premises in the following zones:

- **RU1 Primary Production:** Permit with consent
- **RU2 Rural Landscape:** Prohibit
- **RU3 Forestry:** Prohibit
- **RU4 Primary Production Small Lots:** Permit with consent
- **RU5 Village:** Permit with consent
- **RU6 Transition:** Prohibit
- **E3 Environmental Management :** Prohibit
- **E4 Environmental Living :** Prohibit

Supporting details

Council details

Select your council
Narrabri Shire Council

Full name
Donna Ausling

Position
Manager Strategic Planning

Email
donnaa@narrabri.nsw.gov.au

Contact number
0267996866

Do you agree to allow the department to contact you in relation to the above answers?
Yes

11.2 EMPLOYMENT ZONE PLANNING REFORMS

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Donna Ausling, Manager Strategic Planning

Attachments:

1. Narrabri LEP 2012 Translation Detail from Department of Planning & Environment [↓](#)
2. Narrabri LEP 2012 Preliminary Translation Detail [↓](#)

DELIVERY PROGRAM ALIGNMENT

2 Environment

Objective	2.1 We will maintain our open spaces, natural environment and heritage for future generations
Strategy	2.1.2 Planning controls appropriately identify and conserve open spaces and natural environmental areas

EXECUTIVE SUMMARY

The *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021* (Amending Order) was published on 5 November 2021. The Amending Order introduces employment zones alongside existing business and industrial zones and enables the implementation into individual local environmental plans (LEPs), including the *Narrabri LEP 2012*.

Council's endorsement is sought to the Return Translation Detail for the NSW Department of Planning and Environment's Employment Zone Reform Program.

RECOMMENDATION

1. That Council endorse the Return Translation Detail in respect of the Employment Zone Reform Program.
2. That Council formally advise the NSW Department of Planning and Environment of its decision.

BACKGROUND

The Department of Planning and Environment (DPE) is currently undertaking a suite of planning reforms. This work includes the delivery of a simplified employment zones framework that aims to suit the future of work, is fit for purpose, supports productivity and jobs growth while facilitating delivery of strategic plans and planning priorities. The reform of employment zones also aims to support long-term economic recovery through job creation and encourage increased productivity in NSW.

On this basis the *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021* was published on 5 November 2021. The Amending Order introduces the new employment zones alongside the existing business and industrial zones and enables councils to commence the implementation into individual local environmental plans (LEPs), including the *Narrabri LEP 2012*.

As part of the overarching reform program, changes are also being made to the Standard Instrument LEP Dictionary and Direction 5 to accommodate the new employment zones and other associated land use amendments. The land use term changes commenced on 1 December 2021, with the exception of the changes to 'Local distribution premises', which commences on 30 June 2022. The changes to 'Local distribution premises' were delayed as part of the *Standard Instrument (Local Environmental Plans) Further Amendment (Land Use Zones) Order 2021* (Further Amending Order). Ahead of this commencement date, Council is required to identify any open zones where Local distribution premises should not be permitted with consent so that consequential amendments to those zones can be made.

All Standard Instrument Local Environmental Plans (SILEP) in NSW must be made in accordance with the SILEP Order. This means that a translation amendment to the Narrabri LEP 2012 is proposed. The DPE is coordinating the translation of LEP amendments across the State and is proposing to centralise public exhibition of all LEP amendments in April 2022. In preparation for this process, a preliminary Return Translation Detail submission has been made by Council's Strategic Planning Team. Councillors will note that a copy of this document has been circulated following the recent Councillor Briefing Session on this topic. A further copy is also enclosed with this report.

CURRENT SITUATION

As part of the Employment Zones reform program, the DPE has amended the SILEP Order to introduce five (5) employment zones and three (3) supporting zones. Councillors are advised that only the **bold** highlighted zones have relevance to the Narrabri Shire Local Government Area (LGA). On 1 December 2022, the Business and Industrial Zones will be repealed from the SILEP Order. The new zones are:

- **E1 Local Centre**
- E2 Commercial Centre
- E3 Productivity Support
- **E4 General Industrial**
- E5 Heavy Industrial

The supporting zones are:

- **MU1 Mixed Use**
- W4 Working Waterfront
- SP4 Enterprise

As detailed in the preceding section, in order to progress the translation to the new zones, DPE provided a preliminary translation of Council's LEP, including prepared land use tables. Council's Strategic Planning Team subsequently reviewed the translation and is now in receipt of return Translation Detail, a copy of which is enclosed with this report.

The impacts on Council's local strategic and statutory planning framework have been identified as being relatively minor. A 'like-for-like' approach has been pursued to endeavour to make the changes as seamless as practicable with the exception of two elements – pond-based and tank-based Aquaculture.

The Amending Order will make changes to the existing permissibility of pond-based and tank-based aquaculture in all council LEPs. The changes remove the mandated prohibition of pond-based aquaculture from the B4, IN1-IN2 and RU5 zones (zones listed are those relevant to the Narrabri

LGA). Preliminary advice has been provided to the DPE by Council's Strategic Planning Team in relation to where these land uses should be 'permitted with consent' or 'prohibited'. This particular information is also contained within the enclosed Return Translation Detail. It should be noted that in the conduct of this review no site-specific issues have been identified in respect of existing or proposed aquaculture operations within the Narrabri Shire.

A savings and transitional provision will be made as part of the legislative changes. This approach will enable Council to progressively make changes to other documents including Council strategies, policies, plans and forms.

To enable the LEP amendment process to progress in line with the DPEs reform program timeframes, it is requested that Council formally endorse the return drafting detail, as attached to this report.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY AND POLICY IMPLICATIONS

Detailed in the body of the Report.

CONSULTATION

External Consultation

- NSW Department of Planning & Environment.

Internal Consultation

- Statutory Planning Team.
- Development Team.
- Manager Economic Development.



Translation of the employment zones land use tables

Narrabri LEP 2012 land use tables (Version 2.0)

Draft for Exhibition | Translation of Narrabri LEP 2012 | Version 2.0

Employment zones reform

Translation of Narrabri LEP 2012 land use tables



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Employment zones reform

Translation of Narrabri LEP 2012 land use tables



Narrabri Local Environmental Plan 2012

Zone E1 Local Centre

1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live, work or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To generally conserve and enhance the unique sense of place of business centre precincts by ensuring that new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of those places.
- To ensure that adequate provision is made for infrastructure that supports the viability of business centre precincts.

2 Permitted without consent

Building identification signs; [Environmental protection works](#); Home occupations; Roads; [Water reticulation systems](#)

3 Permitted with consent

Amusement centres; Boarding houses; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; [Dwelling houses](#); [Educational establishments](#); Entertainment facilities; Function centres; Home businesses; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Respite day care centres; [Seniors housing](#); Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; [Any other development not specified in item 2 or 4](#)

4 Prohibited

[Agriculture](#); [Air transport facilities](#); [Airstrips](#); [Animal boarding or training establishments](#); [Boat building and repair facilities](#); [Boat launching ramps](#); [Boat sheds](#); [Camping grounds](#); [Caravan parks](#); [Cemeteries](#); [Charter and tourism boating facilities](#); [Correctional centres](#); [Eco-tourist facilities](#); [Electricity generating works](#); [Environmental facilities](#); [Exhibition homes](#); [Exhibition villages](#); [Extractive industries](#); [Farm buildings](#); [Farm stay accommodation](#); [Forestry](#); [Freight transport facilities](#); [Heavy industrial storage establishments](#); [Helipads](#); [Highway service centres](#); [Home occupations \(sex services\)](#); [Industrial retail outlets](#); [Industrial training facilities](#); [Industries](#); [Jetties](#); [Marinas](#); [Moorings](#); [Open cut mining](#); [Recreation facilities \(major\)](#); [Recreation facilities \(outdoor\)](#); [Research stations](#); [Residential accommodation](#); [Rural industries](#); [Sex services premises](#); [Storage](#)

Draft for Exhibition | Translation of Narrabri LEP 2012 Version 2.0 | 3

Employment zones reform

Translation of Narrabri LEP 2012 land use tables



premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations;
Water recreation structures; Water storage facilities; Wharf or boating facilities

Employment zones reform

Translation of Narrabri LEP 2012 land use tables



Zone E4 General Industrial

1 Objectives of zone

- To provide a range of industrial, warehouse, logistics and related land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

2 Permitted without consent

Building identification signs; [Environmental protection works](#); Roads; [Water reticulation systems](#)

3 Permitted with consent

Business identification signs; Depots; Freight transport facilities; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; [Landscaping material supplies](#); Light industries; Local distribution premises; Neighbourhood shops; Oyster aquaculture; [Plant nurseries](#); [Rural supplies](#); Take away food and drink premises; Tank-based aquaculture; [Timber yards](#); [Vehicle sales or hire premises](#); Warehouse or distribution centres; [Any other development not specified in item 2 or 4](#)

4 Prohibited

[Agriculture](#); [Air transport facilities](#); [Airstrips](#); [Amusement centres](#); [Animal boarding or training establishments](#); [Boat building and repair facilities](#); [Boat launching ramps](#); [Boat sheds](#); [Camping grounds](#); [Caravan parks](#); [Cemeteries](#); [Centre-based child care facilities](#); [Charter and tourism boating facilities](#); [Commercial premises](#); [Community facilities](#); [Correctional centres](#); [Eco-tourist facilities](#); [Educational establishments](#); [Entertainment facilities](#); [Environmental facilities](#); [Exhibition homes](#); [Exhibition villages](#); [Farm buildings](#); [Forestry](#); [Function centres](#); [Health services facilities](#); [Helipads](#); [Highway service centres](#); [Home businesses](#); [Home occupations](#); [Home occupations \(sex services\)](#); [Home-based child care](#); [Information and education facilities](#); [Jetties](#); [Marinas](#); [Mooring pens](#); [Passenger transport facilities](#); [Public administration buildings](#); [Recreation areas](#); [Recreation facilities \(indoor\)](#); [Recreation facilities \(major\)](#); [Recreation facilities \(outdoor\)](#); [Registered clubs](#); [Research stations](#); [Residential accommodation](#); [Respite day care centres](#); [Restricted premises](#); [Stock and sale yards](#); [Tourist and visitor accommodation](#); [Veterinary hospitals](#); [Water recreation structures](#); [Wharf or boating facilities](#)

Employment zones reform

Translation of Narrabri LEP 2012 land use tables



Zone MU1 Mixed Use

1 Objectives of zone

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

2 Permitted without consent

Environmental protection works; Home occupations; Roads; Water reticulation systems

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Home industries; Hostels; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Semi-detached dwellings; Seniors housing; Sewage reticulation systems; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Waste or resource transfer stations; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Home occupations (sex services); Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Transport depots; Truck depots; Vehicle body repair workshops; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities

Employment zones reform

Translation of Narrabri LEP 2012 land use tables



Local Provisions and Schedule 1 – Additional permitted uses

No changes are required to local provisions or Schedule 1.

Existing zone names will be updated to new zone names.



Employment zones reform translation – Return Translation Detail

Narrabri LEP 2012 Templates for Council to fill in

DRAFT FOR DISCUSSION PURPOSES | VERSION 1.0

Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



RETURN TRANSLATION DETAIL NOTE: PLEASE ENSURE THAT THE TITLE PAGE AND HEADER IS UPDATED WITH THE LEP'S NAME AND YEAR.

1. Confirmation of zone selection

NARRABRI – ZONE E1 Local Centre		
Confirm zone is correct Y/N	Entire zone not appropriate or Specific zone incorrectly applied to an area	Council comment
Y		

NARRABRI – ZONE E4 General Industrial		
Confirm zone is correct Y/N	Entire zone not appropriate or Specific zone incorrectly applied to an area	Council comment
Y		

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



NARRABRI – ZONE MU1 Mixed Use		
Confirm zone is correct Y/N	Entire zone not appropriate or Specific zone incorrectly applied to an area	Council comment
Y		

2. Local zone objectives

NARRABRI – ZONE E1 Local Centre			
Local objective ¹	DPIE recommendation (retain delete or amend)	Council comment	Amended or new local objective (where applicable)
To provide a range of retail, business and community uses that serve the needs of people who live, work or visit the area.		No change	
To encourage investment in local commercial development that generates employment opportunities and economic growth.		No change	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.		No change	
To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.		No change	
To generally conserve and enhance the unique sense of place of business centre precincts by ensuring that new development integrates with the distinct urban scale, character, cultural heritage and landscape setting of those places.	Retain	No change	
To ensure that adequate provision is made for infrastructure that supports the viability of business centre precincts.	Retain	No change	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



NARRABRI – ZONE E4 General Industrial			
Local objective ¹	DPIE recommendation (retain delete or amend)	Council comment	Amended or new local objective (where applicable)
To provide a range of industrial, warehouse, logistics and related land uses.		No change	
To ensure the efficient and viable use of land for industrial uses.		No change	
To minimise any adverse effect of industry on other land uses.		No change	
To encourage employment opportunities.		No change	
To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.		No change	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



NARRABRI – ZONE MU1 Mixed Use			
Local objective ¹	DPIE recommendation (retain delete or amend)	Council comment	Amended or new local objective (where applicable)
To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.		No change	
To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.		No change	
To minimise conflict between land uses within this zone and land uses within adjoining zones.		No change	
To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.		No change	

NOTE:

- Copy this table for each proposed zone
- Insert additional rows as required
- Title each table with the zone objectives it addresses

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



3. Permitted with or without consent

NARRABRI – ZONE E1 Local Centre		
Land uses	Permitted without consent	Permitted with consent
Building identification signs	Building identification signs	
Business identification signs		Business identification signs
Home businesses		Home businesses
Home industries		Home industries
Home occupations	Home occupations	
Recreation areas		Recreation areas
Roads	Roads	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



NARRABRI – ZONE E4 General Industrial		
Land uses	Permitted without consent	Permitted with consent
Building identification signs	Building identification signs	
Business identification signs		Business identification signs
Roads	Roads	

NARRABRI – ZONE MU1 Mixed Use		
Land uses	Permitted without consent	Permitted with consent
Building identification signs	Building identification signs	
Business identification signs		Business identification signs
Home industries		Home industries
Roads	Roads	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



4. Other land uses

NARRABRI – ZONE E1 Local Centre			
Land use	Permitted without consent	Permitted with consent	Prohibited
Building identification signs	Building identification signs		
Environmental protection works	Environmental protection works		
Home occupations	Home occupations		
Roads	Roads		
Water reticulation systems	Water reticulation systems		
Business identification signs		Business identification signs	
Dwelling houses		Dwelling houses	
Educational establishments		Educational establishments	
Home businesses		Home businesses	
Home industries		Home industries	
Passenger transport facilities		Passenger transport facilities	
Recreation areas		Recreation areas	
Registered clubs		Registered clubs	
Restricted premises		Restricted premises	
Seniors housing		Seniors housing	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Any other development not specified in item 2 or 4		Any other development not specified in item 2 or 4	
Agriculture			Agriculture
Air transport facilities			Air transport facilities
Airstrips;			Airstrips;
Animal boarding or training establishments			Animal boarding or training establishments
Boat building and repair facilities			Boat building and repair facilities
Boat launching ramps			Boat launching ramps
Boat sheds			Boat sheds
Camping grounds			Camping grounds
Caravan parks;			Caravan parks;
Cemeteries			Cemeteries
Charter and tourism boating facilities			Charter and tourism boating facilities
Correctional centres			Correctional centres
Eco-tourist facilities			Eco-tourist facilities
Electricity generating works			Electricity generating works;
Environmental facilities			Environmental facilities
Exhibition homes			Exhibition homes
Exhibition villages			Exhibition villages

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Extractive industries			Extractive industries
Farm buildings			Farm buildings
Farm stay accommodation			Farm stay accommodation
Forestry			Forestry
Freight transport facilities			Freight transport facilities
Heavy industrial storage establishments			Heavy industrial storage establishments
Helipads			Helipads
Highway service centres			Highway service centres
Home occupations (sex services)			Home occupations (sex services)
Industrial retail outlets			Industrial retail outlets
Industrial training facilities			Industrial training facilities
Industries			Industries
Jetties			Jetties
Marinas			Marinas
Moorings			Moorings
Open cut mining			Open cut mining
Recreation facilities (major)			Recreation facilities (major)
Recreation facilities (outdoor)			Recreation facilities (outdoor)
Research stations			Research stations

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Residential accommodation			Residential accommodation
Rural industries			Rural industries
Sex services premises			Sex services premises
Storage premises			Storage premises
Transport depots			Transport depots
Truck depots			Truck depots
Vehicle body repair workshops			Vehicle body repair workshops
Vehicle repair stations			Vehicle repair stations
Water recreation structures			Water recreation structures
Water storage facilities			Water storage facilities
Wharf or boating facilities			Wharf or boating facilities

NARRABRI – ZONE E4 General Industrial			
Land use	Permitted without consent	Permitted with consent	Prohibited
Building identification signs	Building identification signs		
Environmental protection works	Environmental protection works		
Roads	Roads		
Water reticulation systems	Water reticulation systems		

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Business identification signs		Business identification signs	
Landscaping material supplies		Landscaping material supplies	
Plant nurseries		Plant nurseries	
Rural supplies		Rural supplies	
Sewage reticulation systems		Sewage reticulation systems	
Timber yards		Timber yards	
Vehicle sales or hire premises		Vehicle sales or hire premises	
Waste or resource transfer stations		Waste or resource transfer stations	
Any other development not specified in item 2 or 4		Any other development not specified in item 2 or 4	
Agriculture			Agriculture
Air transport facilities			Air transport facilities
Airstrips			Airstrips
Amusement centres			Amusement centres
Animal boarding or training establishments			Animal boarding or training establishments
Boat building and repair facilities			Boat building and repair facilities
Boat launching ramps			Boat launching ramps
Boat sheds			Boat sheds
Camping grounds			Camping grounds

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Caravan parks			Caravan parks
Cemeteries			Cemeteries
Centre-based child care facilities			Centre-based child care facilities
Charter and tourism boating facilities			Charter and tourism boating facilities
Commercial premises			Commercial premises
Community facilities			Community facilities
Correctional centres			Correctional centres
Eco-tourist facilities			Eco-tourist facilities
Educational establishments			Educational establishments
Entertainment facilities			Entertainment facilities
Environmental facilities			Environmental facilities
Exhibition homes			Exhibition homes
Exhibition villages			Exhibition villages
Farm buildings			Farm buildings
Forestry			Forestry
Function centres			Function centres
Health services facilities			Health services facilities
Helipads			Helipads
Highway service centres			Highway service centres

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Home businesses			Home businesses
Home occupations			Home occupations
Home Occupations (sex services)			Home Occupations (sex services)
Home-based child care			Home-based child care
Information and education facilities			Information and education facilities
Jetties			Jetties
Marinas			Marinas
Mooring pens			Mooring pens
Passenger transport facilities			Passenger transport facilities
Public administration buildings			Public administration buildings
Recreation areas			Recreation areas
Recreation facilities (indoor)			Recreation facilities (indoor)
Recreation facilities (major)			Recreation facilities (major)
Recreation facilities (outdoor)			Recreation facilities (outdoor)
Registered clubs			Registered clubs
Research stations			Research stations
Respite day care centres			Respite day care centres
Restricted premises			Restricted premises
Stock and sale yards			Stock and sale yards

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Tourist and visitor accommodation			Tourist and visitor accommodation
Veterinary hospitals			Veterinary hospitals
Water recreation structures			Water recreation structures
Wharf or boating facilities			Wharf or boating facilities

NARRABRI – ZONE MU1 Mixed Use			
Land use	Permitted without consent	Permitted with consent	Prohibited
Environmental protection works	Environmental protection works		
Home occupations	Home occupations		
Roads	Roads		
Water reticulation systems	Water reticulation systems		
Building identification signs		Building identification signs	
Business identification signs		Business identification signs	
Dwelling houses		Dwelling houses	
Hostels		Hostels	
Semi-detached dwellings		Semi-detached dwellings	
Sewage reticulation systems		Sewage reticulation systems	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Waste or resource transfer stations		Waste or resource transfer stations	
Any other development not specified in item 2 or 4		Any other development not specified in item 2 or 4	
Agriculture		Agriculture	
Air transport facilities;		Air transport facilities;	
Airstrips		Airstrips	
Animal boarding or training establishments		Animal boarding or training establishments	
Boat building and repair facilities		Boat building and repair facilities	
Boat launching ramps		Boat launching ramps	
Boat sheds		Boat sheds	
Cemeteries		Cemeteries	
Charter and tourism boating facilities		Charter and tourism boating facilities;	
Correctional centres		Correctional centres	
Crematoria		Crematoria	
Eco-tourist facilities		Eco-tourist facilities	
Electricity generating works		Electricity generating works	
Exhibition homes		Exhibition homes	
Exhibition villages		Exhibition villages	

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Extractive industries			Extractive industries
Farm buildings			Farm buildings
Forestry			Forestry
Freight transport facilities			Freight transport facilities
Heavy industrial storage establishments			Heavy industrial storage establishments
Helipads			Helipads
Home occupations (sex services)			Home occupations (sex services)
Industrial training facilities			Industrial training facilities
Industries			Industries
Jetties			Jetties
Marinas			Marinas
Mortuaries			Mortuaries
Open cut mining			Open cut mining
Recreation facilities (major)			Recreation facilities (major)
Recreation facilities (outdoor)			Recreation facilities (outdoor)
Residential accommodation			Residential accommodation
Rural industries			Rural industries
Sewerage systems			Sewerage systems
Sex services premises			Sex services premises

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Transport depots			Transport depots
Truck depots			Truck depots
Vehicle body repair workshops			Vehicle body repair workshops
Waste or resource management facilities			Waste or resource management facilities
Water recreation structures			Water recreation structures
Water supply systems			Water supply systems
Wharf or boating facilities			Wharf or boating facilities

NOTE:

- Copy this table for each proposed zone
- Title each table with the zone
- Insert additional rows as required

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



5. Pond-based aquaculture

Pond-based aquaculture		
Zone	Permitted with consent	Prohibited
E1 Local Centre		Pond-based aquaculture
E4 General Industrial	Pond-based aquaculture	
MU1 Mixed Use		Pond-based aquaculture
RU5 Village	Pond-based aquaculture	

NOTE:

- Insert additional rows as required

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



6. Tank-based aquaculture

Tank-based aquaculture		
Zone	Permitted with consent	Prohibited
R4 – High Density Residential	N/A	N/A

NOTE:

- Only one table is required for the R4 zone

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



7. Local distribution premises

Local distribution premises		
Zone	Permitted with consent or prohibited	Justification
RU1 Primary Production	Prohibit	Inconsistent with objectives of RU1 zone
RU3 Forestry	Prohibit	Inconsistent with objectives of RU3 zone
RU4 Primary Production Small Lots	Prohibit	Inconsistent with Objectives of RU4 zone
RU5 Village	Permit with consent	Consistent with Objectives of RU5 zone
R1 General Residential	Prohibit	Inconsistent with Objectives of R1 zone
R5 Large Lot Residential	Prohibit	Inconsistent with objectives of R5 zone
SP1 Special Activities	Prohibit	Inconsistent with objectives of SP1 zone
SP2 Infrastructure	Prohibit	Inconsistent with objectives of SP2 zone
RE1 Public Recreation	Prohibit	Inconsistent with objectives of RE1 zone
RE2 Private Recreation	Prohibit	Inconsistent with objectives of RE2 zone
C1 National Parks and Nature Reserves	Prohibit	Inconsistent with objectives of C1 zone
C3 Environmental Management	Prohibit	Inconsistent with objectives of C3 zone

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



8. Local provisions

Local Provisions			
Local provision clause ¹	DPIE recommendation	Council comment	Amended local provision (if applicable)
Cl 6.1 Earthworks		No change	
Cl 6.3 Airspace Operations		No change	
Cl 6.4 Development in areas subject to aircraft noise		No change	
Cl 6.5 Essential Services		No change	
Cl 6.6 Location of sex services premises		No change	
Cl 6.7 Dual Occupancies (detached) in Zone RU1 & Zone RU4		No change	
Cl 6.8 Active Street Frontages	Retain	No change	

NOTE:

- Only one table is required
- Insert additional rows as required

9. Schedule 1 – Additional permitted uses

Schedule 1

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



Site*	Schedule 1 provision†	Reason for removal

10. Other zone or land use matters to be considered

<Zone>	
Land use	Proposed change

<Zone>	
Land use	Proposed change

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Employment zones reform

Preliminary translation of Narrabri LEP 2012 land use tables



<Zone>	
Land use	Proposed change

NOTE:

- Copy this table for each proposed zone
- Insert additional rows as required

FOR DISCUSSION PURPOSES | Return Translation Detail for Council to fill in - Preliminary Translation Version 1.0 | 25

11.3 INFRASTRUCTURE CONTRIBUTIONS REFORMS

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Donna Ausling, Manager Strategic Planning

Attachments: 1. LGNSW Submission on Infrastructure Reforms [↓](#)

DELIVERY PROGRAM ALIGNMENT

2 Environment

Objective 2.1 We will maintain our open spaces, natural environment and heritage for future generations

Strategy 2.1.2 Planning controls appropriately identify and conserve open spaces and natural environmental areas

EXECUTIVE SUMMARY

The NSW Government is proposing reforms to the system of infrastructure contributions in NSW.

To initiate the reform program, amendments to the *Environmental Planning and Assessment Act 1979*, outlined in the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill* were introduced to the NSW Parliament in June 2021.

The reforms tend to provide benefit to the development industry by cost shifting from the developer to the community. LGNSW and the majority of councils across NSW have expressed their concerns that the local government sector would be left worse off as a result of these proposals.

RECOMMENDATION

1. That Council receive periodic updates on the progress of the NSW Government Infrastructure Contributions Reform Program.

BACKGROUND

The NSW Government is proposing reforms to the system of infrastructure contributions in NSW. In late 2021, a detailed package of information was exhibited, containing the following:

- *Environmental Planning and Assessment Act Regulation* amendments and explanatory paper
- Land value contributions explanatory paper
- Local contributions practice notes, explanatory paper and modules
- Regional Infrastructure Contribution discussion paper and Explanation of Intended Effect
- Regional Infrastructure Works in Kind and Governance and Prioritisation guidelines
- Ministerial Directions and draft practice note as pertaining to Land Use Planning

LGNSW and the majority of councils across NSW have expressed their concerns that the local government sector would be left worse off as a result of these proposals. A copy of the LGNSW submission made in relation to the reforms is included in this report.

In November 2021, LGNSW secured confirmation from the former NSW Planning Minister Rob Stokes that no council would be worse off under the reforms. At that time the Minister also promised to:

- Seek financial assistance for councils struggling to provide local infrastructure, if developer contributions are withheld to the end of a project.
- Spend regional infrastructure contributions in the area from which they are collected based on the applicable strategic planning.
- Incorporate these commitments into the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021*.

To initiate the reform program, amendments to the *Environmental Planning and Assessment Act 1979*, outlined in the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill* were introduced to the NSW Parliament in June 2021.

LGNSW opposed the Bill and advocated for changes to the Bill. The Bill was subsequently referred to the NSW Upper House for inquiry and report in June 2021. The inquiry recommended that the Bill not proceed until draft regulations were developed and referred for consultation and the reviews into the rate-pegging system, benchmarking outlining and essential works list were published by the Independent Pricing and Regulatory Tribunal. At the time of writing this Report, the Bill currently awaits further debate in the Upper House.

CURRENT SITUATION

The majority of the reforms were placed on public exhibition from 28 October 2021 to 10 December 2021 coinciding with the caretaker period prior to Council elections. Council is advised that the Department's exhibition was held in parallel with IPART's review of the local infrastructure contributions system (Essential Works List, Nexus, Efficient Design and Benchmarking) of infrastructure items. Due to competing commitments and resourcing constraints, Council's Strategic Planning Team were unable to make a formal submission to the review which included some 200 pages of material and overlapped with a number of other DPE-led planning policy reviews of legislation.

Council's Strategic Planning Team are generally supportive of initiatives to simplify the Infrastructure Contributions System with the view of promoting transparency and overall consistency. In its current format, it is uncertain if the proposed reforms will achieve these goals. Previous similar initiatives have had the undesirable effect of adding additional complexities.

It should be noted that a considerable amount of the reform progress relates to metropolitan areas. The reforms to State Infrastructure Contributions and Regional Infrastructure Contributions are relevant examples. Council's Strategic Planning Team has some significant concerns in relation to a number of matters affecting the Narrabri Shire. These primary concerns are summarised as follows:

Rate pegging coupled to Infrastructure Contributions Reform

The statement has been made by the NSW DPE that the rate peg review process undertaken by IPART is independent to the infrastructure contributions reform process. It is apparent, however, that they are clearly closely related based on previous representations made by the Productivity Commissioner.

This particular measure represents a clear cost shift from developers onto local communities, which is considered inequitable. It is acknowledged that there may be an underlying need to reform the rating system, however, this should be independent of any proposed reforms to the infrastructure

contributions framework. The introduction of the proposed population growth factor provides limited benefit to many rural and regional councils, including Narrabri Shire Council, which was assigned no growth factor by IPART. This indicates that the IPART proposal is metropolitan-focused, to the ultimate detriment of rural and regional areas.

The IPART decision to cap rate increases to 0.7% appears to be a serious impediment to the local government and appears to be inconsistent with historical commitments made by the former NSW Planning Minister that no council will be worse off under the reforms. The IPART process does not appear to adequately consider increased cost of materials and imports such as concrete and fuel as a consequence of COVID-19 conditions and capacity to deliver services, committed projects and programs.

Narrabri Shire Council was assigned a negative growth factor (-1.4%) despite likely projected future growth with the Narrabri SAP project and major project approvals including the extension to a number of mines and the Narrabri Gas Project.

Land Use Planning

Whilst the concept of preparing contributions plans to accompany Planning Proposals at the time of their preparation has theoretical merit, Council's Strategic Planning Team have concerns relating to several aspects of this approach.

Planning Proposals and Contributions Plans are complicated in their development, exhibition, adoption and implementation. Further certainty is required to formulate the Contributions Plan in terms of yield and required infrastructure and if the Planning Proposal is amended as a consequence of requirements from DPE, other government authorities or as a result of community consultation, then the Contributions Plans will also need to be required. Both Planning Proposals and contributions are significant resource demanding projects and should the Planning Proposal not proceed then the resources directed towards the Contributions Plan preparation would have been wasted.

Rural and regional councils, including Narrabri Shire Council, have very limited resources. At Narrabri, the Strategic Planning Team will process both the contributions plan and the LEP amendment (Planning Proposal). The value of exhibiting the infrastructure delivery strategy with a Planning Proposal is acknowledged. However, the inclusion of a fully-developed Contributions Plan further complicates an already complex process with documentation being subject to a range of prescriptive legislation under the *Environmental Planning and Assessment Act 1979* and corresponding *Regulation*.

In conclusion, Council's Strategic Planning Team supports the general intent of the reforms in respect of the intent to reduce complexity. A range of significant concerns are retained, as summarised above. The reforms tend to provide benefit to the development industry by cost shifting from the developer to the community, yet rates have been pegged at such a low level that many Councils, including Narrabri, will have very limited capacity to enhance facilities to meet the community expectations for a liveable community.

As such a large volume of material was exhibited, it is currently unclear whether the proposed changes will, in fact, simplify the NSW Infrastructure Contributions systems. Whilst the exhibition period has closed, it is intended that Council's Strategic Planning Team will continue to liaise with LGNSW in relation to its ongoing advocacy efforts being undertaken on behalf of the local government sector.

It is intended that Council's Strategic Planning Team will continue to keep Councillors updated on the progress of the reform program.

FINANCIAL IMPLICATIONS

Detailed in the body of the Report.

STATUTORY AND POLICY IMPLICATIONS

Detailed in the body of the Report.

CONSULTATION

External Consultation

Nil.

Internal Consultation

Nil.



Draft submission to NSW Department of Planning, Industry and Environment

Infrastructure Contributions Reforms

December 2021

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1. Introduction

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission to the NSW Department of Planning, Industry and Environment (DPIE) on the infrastructure contribution reforms currently on exhibition.

LGNSW was concerned about the lack of broad consultation in the first stage of these reforms, when the *Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021* was introduced into NSW Parliament cognate with the NSW Budget Appropriation Bills. We welcomed the NSW Upper House Inquiry into the Bill and its recommendation that the Bill not proceed until draft regulations have been developed and released for consultation and the reviews into the rate pegging system, benchmarking and the essential works list were published by the Independent Pricing and Regulatory Tribunal (IPART)¹.

LGNSW welcomes the commitment² of the Minister for Planning and Public Spaces, the Hon. Rob Stokes, to modify the reform package and work with LGNSW and councils to ensure that what he has committed to on behalf of the NSW Government, in particular that no council will be worse off, will form part of the legislative amendments currently before Parliament and that this occurs as part of the Bill progressing in the Legislative Council.

It is wholly appropriate that all the proposed regulatory changes, Ministerial Directions and subordinate legislation that will give effect to the Government's infrastructure contributions reform agenda are available for public scrutiny and comment prior to the Bill being progressed.

It is unfortunate that the timeline for this consultation conflicts with the local government elections. The move into the caretaker period from 5 November has severely restricted the opportunity for elected councils to review and provide comment on the exhibition documents. As a result, the comments provided in this and other submissions largely reflect technocratic and bureaucratic perspectives, without the full benefit of democratic review. As demonstrated in councils' individual submissions, the reforms have broad implications for councils, not the least being financial and the service standards to be delivered to communities, as well as resourcing implications during implementation and ongoing. These are core responsibilities of the elected body of councils. We do however acknowledge that DPIE will accept Council-endorsed submissions one week after the first meeting of the new councils in early 2022 (approximately early March 2022).

This submission remains in draft form until endorsed by the LGNSW Board. Any revisions made by the Board will be forwarded as soon as possible.

¹ Portfolio Committee No. 7 - Planning and Environment [Report](#), August 2021

² Ministerial [Media Release](#), 24 November 2021



2. Opening

LGNSW has supported reforms to this complex system with the aim of reducing complexity, improving transparency and equity and releasing the financial burden placed on councils providing local infrastructure to support population growth and/or the changing needs of communities.

The proposals contained in this far-reaching reform agenda pose significant change to the existing system and need to be considered judiciously and supported with modelling and test cases before the reforms are finalised. It is essential that councils and communities are not left worse off as a result of the changes.

Analysis of the exhibition material and modelling being undertaken by individual councils and Regional Organisations of Councils (ROCs) finds that unless certain amendments are made and provisions guaranteed, some councils will be negatively affected. This is outlined in councils' individual submissions. LGNSW has been facilitating the provision of modelling scenarios data between councils and DPIE and requests that DPIE continue to assess these modelling results and modify the reform proposals as necessary to ensure that no council is worse off.

LGNSW opposes the draft Bill that is currently in the NSW Parliament. This legislation was introduced on the premise of enabling the State Government to implement the recommendations of the NSW Productivity Commissioner Review of Infrastructure Contributions (PC Review).

In addition to local government's legitimate concerns that the changes could leave councils worse off, LGNSW and the local government sector have also held reservations that the Bill provides the Government with powers to implement other reforms, that are outside the scope of the PC Review, without further parliamentary scrutiny.

In light of these fundamental concerns, LGNSW acknowledges recent commitments by the Minister, on behalf of the NSW Government as indicated in **Attachment 1**, which include a guarantee that councils and their communities are not left worse off as a result of the reforms and that the details will be embedded in the legislation to ensure Parliamentary oversight of any future proposed changes. We also welcome the Government amendments introduced into the Legislative Council on 25 November 2021³ that give effect to some of the Minister's commitments. The Minister's commitments are explored further below.

These commitments go some way to allay councils' fears, however as councils work through the exhibition material and model the numbers under the proposed new framework, questions remain and a series of amendments and key provisions will be needed before LGNSW and councils can be satisfied that the legislation and the other reforms will not leave councils worse off.

Some are also contemplating the implications for their current infrastructure contributions plans that have been meticulously developed to meet the vision for particular precincts, after detailed community consultation and years of negotiations with DPIE. There will be a need to address transitional and grandfathering provisions, so that these plans and the principles underpinning them are not undermined by these latest changes. This is discussed in further detail below.

³ [Proposed amendments to Environmental Planning and Assessment Amendment \(Infrastructure Contributions Bill 2021 – c2021-248B \(Contains Amendment No's 1, 2, 3 & 4\)](#)



3. General comments

3.1 No council left worse off

LGNSW welcomes the Minister's agreement to make changes to the reform package, in particular the commitment that no council will be worse off under these reforms.

LGNSW deems this "no worse off" guarantee to be entirely independent of the population growth rates reforms. We note that the Minister for Local Government endorsed the recommendations of the Independent Pricing and Regulatory Tribunal (IPART) for reforms to council rates and the NSW Government has separately stated that it will progress these reforms independently from any reforms to the infrastructure contributions system. On this basis, it is our understanding that "no worse off" assumes the Government is not taking into consideration population growth supporting rate revenue.

Importantly, the Minister's pledge to work with local government to deliver these commitments must be upheld. A range of councils are modelling the impacts to confirm whether the reforms will leave them better or worse off. To ensure the Minister's guarantee that no council will be left worse off, LGNSW urges the department to actively review this modelling information and work with the councils and LGNSW to adjust the settings and provisions where necessary.

Recommendation 1: That the Minister's commitment that no council will be left worse off remains independent of the population growth rate reforms and is reinforced by:

- the NSW Government ensuring it has access to councils' modelling of the effects of the reforms; and
- the Department of Planning, Industry and Environment working with LGNSW and councils to adjust the settings as necessary to uphold the Minister's guarantee.

3.2 Key reform commitments to be in primary legislation

Given the far-reaching impacts of these reforms, it is critical that the NSW Parliament is provided the opportunity to scrutinise and oversee key reform elements, and that Ministerial powers and discretion in the legislation are limited.

We acknowledge Minister Stokes' commitment that the adjustments to the reform package he has committed to on behalf of the NSW Government will form part of the legislative amendments currently before Parliament. Notwithstanding any changes as a result of the anticipated Cabinet reshuffle, we expect that any new Minister with carriage of legislation through Parliament on behalf of the NSW Government, will honour Minister Stokes' commitment.

LGNSW notes that in light of these commitments, the NSW Government tabled proposed amendments to the Bill in the Legislative Council on 25 November 2021⁴. However, as discussed further in this submission, these amendments do not fully address all of LGNSW's concerns and if adopted, would fail to embed all of the Minister's commitments in the legislation.

⁴ [Proposed amendments to Environmental Planning and Assessment Amendment \(Infrastructure Contributions Bill 2021 – c2021-248B \(Contains Amendment No's 1, 2, 3 & 4\)](#)



In summary, LGNSW considers that amendments to the Bill need to be made in the following areas:

- a. Amend the Bill to lock in the Minister's commitment regarding no change to the current settings for the timing of payments and limit the Minister's discretion to determine the development thresholds this direction will apply to. (See section 4.1 of this submission.)
- b. Amend the Bill to include provisions that limit the expansion of RICs to other regions or add a provision requiring a parliamentary process if expanding the RIC to additional regions in future. (See section 4.2 of this submission.)
- c. Amend the Bill to include appropriate transparency and public scrutiny of regional infrastructure contributions. (See section 4.2 of this submission.)
- d. Amend the bill to include provisions that allow existing contributions plans to be grandfathered. (See section 3.3 of this submission.)
- e. Amend the legislation to recognise the principle that infrastructure contributions should capture both the land and capital costs of providing core community facilities. (See section 4.5 of this submission.)
- f. Delete the provision (Schedule 1[4]) that proposes to change the timing for LSPS review from 7 to 5 years. (See section 4.6 of this submission.)
- g. Amend the Bill to introduce a provision to guarantee payments of local contributions for SSD (where there is a contributions plan in place). (See section 4.7 of this submission.)

Recommendation 2: *That the NSW Government, and any Minister with carriage of this legislation through Parliament, honours Minister Stokes' commitment to work with LGNSW to ensure all key reform adjustments, as discussed in this submission, are included in the primary legislation.*

3.3 Commencement, transitional arrangements and grandfathering

LGNSW notes that the government expects the new infrastructure contributions system to be in place by 1 July 2022. Given the various delays in finalising the package and taking into account the cumulative impacts of this and many other major planning reforms for all stakeholders, LGNSW considers that January 2023 is a more realistic date for commencement of the infrastructure contributions package.

It is also understood that councils' existing contributions plans will continue to apply until transitioned into the new system, and that councils are expected to review their existing contributions plans by 1 July 2024. LGNSW notes the department's advice⁵ that "there will be flexibility" and councils will be able to apply for an extension to the 1 July 2024 deadline. However, there are no details of these arrangements.

Assuming a commencement date of mid-2022, this gives councils only two years to review and finalise their contributions plans under this entirely new scheme and is considered an unrealistic timeframe.

⁵ [DPIE FAQs](#)



Unless this timeframe is extended, it is likely we will see this “flexibility” being taken up in the form of requests for extensions from many councils. A more realistic date is 1 July 2025.

Some councils have invested years of consultation with their communities and negotiations with government agencies (principally DPIE) to develop contributions plans in good faith to meet the particular growth needs of their local areas. The transitional arrangements and any grandfathering provisions are of huge consequence for these councils, particularly in light of the requirement for contributions plans to be reviewed within a timeframe of just two years. Many have legitimate questions about the future status of their existing plans, particularly those which have been recently finalised or where a draft plan is well-advanced, and the community has been already consulted. The expectation that these plans have to be reviewed as early as 2024 creates unnecessary additional burden on councils’ resources and potentially a lot of confusion for the community.

The bill should therefore include provisions to grandfather existing plans in perpetuity or until they lapse where a council opts in to such an arrangement.

In light of the Minister’s commitment, on behalf of the NSW Government, that no council will be left worse off by the reforms, it is critical that DPIE also works closely with all councils to understand the implications of the reforms and the unique circumstances of individual councils in regard to their existing plans and transitional arrangements.

Savings and transitional provisions will also be critical to ensuring the continued funding and roll-out of critical infrastructure, particularly that which is currently covered under existing special infrastructure contributions (SICs). Councils will need certainty to ensure that funding allocations under the current SIC program are honoured once the changes come into effect.

Recommendation 3: Amend the bill to include provisions that allow existing contributions plans to be grandfathered.

Recommendation 4: The 1 July 2024 timeframe for councils to review their existing contributions plans should be extended to 1 July 2025.

Recommendation 5: The NSW Government should give due consideration to delaying commencement of the new infrastructure contributions framework until January 2023.



4. Specific concerns

4.1 Timing of infrastructure contributions payments

LGNSW objects to the Government generally seeking to extend temporary provisions made in response to the pandemic and to make these permanent.

Councillors from across NSW raised concerns with this proposal through the following resolution of the 2020 LGNSW Annual Conference:

64 Payments to council Contribution Plans by developers

That Local Government NSW lobbies the NSW Government to urgently review the decision to allow the deferral of payments for local council Contributions Plans by developers.

Under the current temporary health settings, a Ministerial Direction on the timing of payments⁶ was issued in June 2020 and applies to development estimated at \$10 million or greater. Ultimately, LGNSW would like to see the temporary provisions in the Act which currently allow these Ministerial Directions to be made to lapse as intended in March 2022.

In correspondence to LGNSW⁷, the Minister committed, on behalf of the NSW Government:

- not to expand the Ministerial Direction about when local contributions are to be paid “beyond the current settings”; and
- to “seek financial assistance for councils that can demonstrate cash flow problems resulting from my directions about the timing of local contribution payments”.

In its current form, the Bill proposes to replace current temporary provisions - which apply only during the prescribed COVID-19 pandemic period - with new and permanent provisions that place no limitations on the Minister’s discretionary powers regarding these directions.

This provision remains a significant overreach of Ministerial powers and is opposed by LGNSW and the local government sector.

LGNSW requests that the Bill be amended to limit the direction-making powers regarding the timing of contributions payments to projects of \$10 million or greater in line with the Minister’s commitment.

Further, while it is noted that the PC recommended that the current Ministerial Direction be “extended permanently”, LGNSW does not regard this as meaning permanent expansion to *all* development. LGNSW and the entire local government sector would object to any reform at any stage in the future that would allow this direction to be expanded to apply to all development, and we would oppose using the PC recommendation to justify such a move.

⁶ <https://www.planning.nsw.gov.au/-/media/Files/DPE/Directions/ministerial-direction-local-infrastructure-contributions-timing-of-payments-2020-06-25.PDF?la=en>

⁷ Correspondence from Minister Stokes to LGNSW President, dated 27 October 2021 & 8 November 2021



Recommendation 6: Remove the provisions in the Bill that seek to make the temporary measures relating to timing of payments permanent and allow the current Ministerial Direction to lapse in March 2022 as intended.

Recommendation 7: Short of amending the Bill as recommended above, the Bill must limit the Minister's discretion to determine the development thresholds this direction will apply to (to projects of \$10 million or greater in line with the Minister's commitment).

Recommendation 8: In light of the Minister's commitment to provide financial assistance to councils experiencing cash flow problems as a result of the permanent application of this Ministerial Direction, the department should develop a process/guidelines to spell out how this will work.

Recommendation 9: LGNSW opposes any reform at any stage in the future that would expand this direction to apply to all development.

Other related recommendations by the PC

In conjunction with the recommendation to make the current Ministerial Direction permanent, the PC acknowledged the challenges and administrative costs faced by many councils in securing contributions payments from developers and therefore also recommended:

- ii. Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions.
- iii. Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate.
- iv. Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.

LGNSW strongly supports these recommendations and requests that the Government commit to implementing these in parallel with any permanent extension of the above-mentioned Ministerial Direction. Councils face issues recovering significant sums of money owed for infrastructure contributions where private certifiers have issued OCs. The time and administrative costs in pursuing these outstanding payments can be substantial. Where payments are deferred, councils can also be exposed to greater risk of default by developers and costly, protracted debt recovery proceedings.

LGNSW seeks confirmation that these recommendations have been, or are being, implemented.

Recommendation 10: That any permanent extension of the Ministerial Direction on the timing of payments be subject to the corresponding implementation of PC recommendations 4.10 ii, iii and iv and that NSW Department of Planning, Industry and Environment confirm the status of their implementation.

4.2 Regional Infrastructure contributions

The local government sector has maintained that the payment of a Regional Infrastructure Contribution by a proponent to the NSW Government should be independent of the payment of an infrastructure contribution to the council.

The sector has also called for transparency in the collection and expenditure of RIC funds.



LGNSW acknowledges the Minister's commitment on behalf of the NSW Government that:

- *There will be no reduction in council contributions caused by the new regional infrastructure contribution.*
- *The RIC is paid by developers separately to local infrastructure contributions and will be spent in the region it is charged from.*
- *RICs will be spent in the region they are collected from, and the funding priorities will be determined based on the applicable strategic planning framework (which includes LSPs based on district and regional plans.)*

LGNSW also notes the Government has proposed the following amendments to the Bill to reflect this commitment:

Provision of regional infrastructure

Page 13, Schedule 1[27], proposed section 7.23, lines 3 and 4. Omit all words on those lines. Insert instead—

- (4) A regional infrastructure contribution imposed as a condition of development consent on development must be applied to provide regional infrastructure within the region in which the development is located.

Regional infrastructure contributions

Page 15, Schedule 1[27]. Insert after line 43—

7.30A Effect of Subdivision

Nothing in this Subdivision affects the operation of Subdivision 2, 3 or 3A.

If adopted, these amendments in the Bill would provide legislative backing of the Minister's commitment that RIC money must be spent in the same region where it is collected and that the RIC will not in any way affect or reduce council contributions.

RIC regions

While the current proposal is for the RIC to apply in four regions, there is nothing in legislation that would prevent a future Minister or Government expanding the RIC to other regions. As the current framework is set out, LGNSW understands this could be done by an amendment to the proposed SEPP that will establish the RIC. While the government might undertake to consult on any future changes to the SEPP, there is no legislative requirement to do so, leaving it open to a future Minister or Government to introduce this broad-based regional charge into other parts of the state without parliamentary scrutiny.

The Bill should be amended to limit the expansion of RICs to other regions or make any future expansion of the RIC regions subject to a parliamentary process.

RIC reporting and transparency

Local government is subject to a highly regulated and transparent framework as part of preparation of its local contribution plans. It is arguable that similar transparency should apply to state and regional infrastructure funding. This should include a publication of information about where and how much



RIC funds have been collected from particular regions and the infrastructure they are being directed towards. This would enable appropriate scrutiny to ensure, in line with the Minister's undertaking, that expenditure of RIC funds remains within the region from which it is collected.

RIC funding priorities

LGNSW notes that the RIC Fund Investment Prioritisation Guidelines⁸ discuss where RIC funds can be spent and that decisions on the allocation of money from the RIC Fund will be made as part of the budget process. LGNSW welcomes the commitment that RIC funding priorities will be determined based on the applicable strategic planning framework which includes LSPSs based on district and regional plans. LGNSW also welcomes that the Department will work with State agencies and local councils to assess the infrastructure and service needs of growing communities and identify priority projects for RIC funding required to support development.

Recommendation 11: Amend the Bill to include provisions that limit the expansion of RICs to other regions and/or make any future expansion of the RIC regions subject to a parliamentary process.

Recommendation 12: Amend the Bill to include appropriate transparency and public scrutiny of regional infrastructure contributions to ensure, in line with the Minister's undertaking, that expenditure of RIC funds remains within the region from which it is collected.

4.3 Appeal rights – s 7.11 and s 7.12

LGNSW notes the Minister's commitment, on behalf of the NSW Government, that there will be no change to existing section 7.11 and section 7.12 appeal rights.

4.4 Section 7.12 levies

LGNSW acknowledges changes made in the exhibited material in response to feedback from LGNSW and councils regarding s 7.12 levies. It is noted that these commitments are reflected in the exhibition package and summarised on DPIE's website⁹ as follows:

- We will apply 'differential' rates based on geographical boundaries (Regional NSW and Greater Sydney divided using the three-cities district boundaries).
- To allow for "knock down rebuilds" to be levied, the charging units have shifted to apply to development instead of "additional" dwellings and "additional" gross floor area.
- s7.12 levies will apply to residential and non-residential alterations and additions with separate rates proposed.
- s7.12 rates have been expanded to include charging units and rates for land uses that could not be levied a per dwelling rate. The land uses include boarding houses, group homes, student accommodation, hotels, motels, serviced apartments, residential care facilities, hostels, backpacker's accommodation, caravan parks and manufactured home estates.

⁸ [RIC Fund Investment Prioritisation Guidelines](#), p 2

⁹ DPIE webpage ['how we have listened'](#)



LGNSW also understands that the proposed levy rates are maximum rates, and councils have the discretion to set lower rates, and that the maximum rates will be indexed.

There are still many questions about how these levies will work. LGNSW acknowledges efforts by the department to clarify councils' questions.

Councils are modelling the proposed s 7.12 changes to determine whether the proposed s 7.12 framework will achieve the Minister's overarching commitment that no council will be left worse off by the reforms.

Two particular matters require further consideration and consultation with local government. The first is around the question of whether the proposed s 7.12 levy should be set as specified dollar amounts for development (as proposed in DPIE's exhibited material) or a fixed percentage rate (as is the current system). As councils assess and model variations of these approaches, concerns are being raised by some that they will be left worse off. There is also a risk that the s 7.12 framework, while currently a straightforward percentage calculation, becomes overly complex, harder for councils to calculate and to administer, which does not align with the principle that the new system should be simple to administer.

This proposed move away from a fixed percentage levy has also drawn questions for some councils about changes and limitations to the type of development that can be charged. The treatment of educational establishments, particularly non-government (private) schools and tertiary education facilities is one example that has been highlighted. While the proposed regulation exempts public schools from the local levy¹⁰, it appears to be silent on the treatment of non-government (private) schools and tertiary education facilities. These are not included in the list of commercial development that could be charged a local levy under s 7.12¹¹. As commercially run businesses that place additional load on local infrastructure (additional traffic, parking demand, footpath use, etc) it is questionable whether non-government schools should be exempted from paying these levies. Such an exemption could constitute a further impact on loss in contributions revenue for some councils, leaving them potentially worse off.

A second question relates to the proposal for alterations and additions to be charged on a per bedroom rate. Councils anticipate this will lead to proponents labelling new and existing rooms on plans as something other than a bedroom (e.g. 'study', 'sunroom', 'formal lounge', 'formal dining') to avoid paying the required contributions. This will not only create uncertainty during assessment, but it has the potential to leave councils short of many thousands of dollars in contributions owed for each additional bedroom. Councils have also raised concerns that existing issues regarding the enforcement of contributions conditions on complying development certificates (involving private certification) could also be exacerbated, if the bedroom count is in any way unclear. Councils have offered various approaches to address this concern.

It is clear from councils' feedback on both these issues that further consideration is needed before LGNSW and councils can be satisfied that the proposed changes will not leave councils worse off. LGNSW therefore urges DPIE to engage further with councils to consider their feedback on:

- the merits of percentage levy rates versus the proposed set dollar charges, and

¹⁰ Clause 25J(1) of [draft Regulation](#)

¹¹ Clause 25T(5) of [draft Regulation](#)



- possible options that would give greater clarity around what could be counted as a bedroom or propose other ways to approach residential alterations and additions rates (such as additional square metres).

Recommendation 13: That DPIE ensure it obtains and reviews modelling information and other advice prepared by councils determining the impacts of proposed changes to s 7.12 and work with the councils and LGNSW to adjust the settings and provisions where necessary.

Recommendation 14: Commercially run non-government (private) schools and other education facilities should not be exempt from the requirement to pay the new local levy (s 7.12).

4.5 Essential works list

Local government's capacity to plan and deliver high quality public domain works would be impossible to fund without appropriate contributions from development. One of the main mechanisms through which councils collect development contributions is through s7.11 contributions plans.

The Essential Works List (EWL) prescribed by DPIE is currently applied to s7.11 contributions plans that propose contribution levels above the current contribution caps of \$20,000 for infill areas and \$30,000 for greenfield developments. These caps have not been increased since they were introduced in 2010. The list heavily restricts the level of contributions that may be raised under s7.11 plans.

LGNSW strongly opposes any moves to further restrict the EWL.

The current EWL is already limited to the very most basic and narrowly defined development contingent infrastructure:

- Land and facilities for open spaces
- Land for community facilities
- Land and facilities for transport
- Land and facilities for stormwater management
- The costs of plan preparation and administration.

The most glaring omission from the list is contributions for community facilities. It is incongruous that *land* for community facilities is considered development contingent but the actual facilities are not.

Notwithstanding this, DPIE's own Practice Note module currently on exhibition¹² has included community facilities among the examples of development-contingent local infrastructure:

Local infrastructure is the public amenities and services that councils are usually responsible for delivering. Depending on the infrastructure needs of the area this might include for example, open space, **community facilities**, local roads, traffic management and stormwater drainage. Local infrastructure is generally a development-contingent cost as it is infrastructure that would not be required if the development did not proceed. The development has created these infrastructure costs by increasing the demand for infrastructure.

¹² *Infrastructure Contribution - Practice Note Review - Policy Paper*, p 25 and [Module](#)



The NSW Government has referred the PC's recommendations about the EWL and related matters to IPART for review. A draft report has been released but the review is still in progress. The PC's recommendations, if implemented, would further restrict the EWL and reduce the amount of contributions that councils can collect. The PC has also recommended that the application of the EWL be extended to include plans that fall within the cap. This would mean that no councils could fund community facilities. LGNSW is disappointed that the Terms of Reference for the review specifically excluded the inclusion of community facilities.

Councils aim to create healthy and thriving communities by funding local facilities such as community and neighbourhood centres, halls, libraries, youth and childcare facilities. It is important for infrastructure to be in place when residents move into areas if we are to create liveable communities. Moreover, contemporary community expectations are that these essential services and facilities will be in place when they move into an area. The absence of community facilities is unacceptable.

The exclusion of community facilities means that councils face significant funding shortfalls causing the delivery of community facilities to lag behind population growth, often many years behind. The definition of "essential" should not be limited to what is physically necessary, it should include what is necessary for communities.

LGNSW has long advocated the inclusion of community facilities in the EWL. It is not sufficient to simply provide land for such facilities. LGNSW strongly opposes any moves to further restrict the EWL and reduce development contributions.

LGNSW has welcomed the Minister's commitment, and related Bill amendment¹³, that there will be no changes to the current settings for the essential works list for at least the next 3 years. However, LGNSW remains of the view, as discussed in our submission to IPART's review, that there should not be an essential works list or a cap.

Recommendation 15: Amend the legislation to recognise the principle that infrastructure contributions should capture both the land and capital costs of providing core community facilities.

4.6 Local Strategic Planning Statements

The Bill shortens the review requirements for councils' Local Strategic Planning Statements (LSPS) from 7 to 5 years. Councils were not consulted about this change and there is no rationale provided for it.

The Minister gave verbal agreement to the (former) LGNSW President that the NSW Government would not change the review timeframe for council LSPS, although this commitment has not been reflected in the Minister's written correspondence to LGNSW. The Bill should be amended to reflect this commitment. It should remain open for each council to revise its LSPS in line with its strategic objectives as they might be from time to time.

Recommendation 16: That council reviews of Local Strategic Planning Statements should remain at minimum seven years and the Bill be amended to delete the provision that proposes to require councils to review LSPS at least every 5 years.

¹³ [Proposed amendments to Environmental Planning and Assessment Amendment \(Infrastructure Contributions Bill 2021 – c2021-248B \(Amendment No. 4\)](#)



4.7 Contribution of State significant development towards local infrastructure

In representations to the Minister and in our submission to the Parliamentary Inquiry¹⁴, LGNSW has recommended that the Act should be amended to guarantee the payment of local infrastructure contributions for all State Significant Developments (SSD) where there is a local contributions plan in place.

LGNSW notes that the exhibition material proposes changes to the way levies for solar and wind farms are calculated. Some regional councils are concerned that the proposed change will create a significant gap in contributions, as this charge is a departure from their current contributions policy (for example where they apply a 1% levy (under s 7.12)).

The proposed adjustment to the levy rate for solar and wind farms also does not address the broader concern that where these and other resource projects are SSD, councils are not the consent authority and consequently have little control over the inclusion of developer contributions as a condition of consent for these proposals.

In regional areas across the state, SSD commonly includes mines, solar farms and other large resource developments. Councils and their communities are being overlooked for important supporting infrastructure because the approval bodies for these developments do not always require payment of contributions for local infrastructure as a condition of approval for SSD. This means that conditions requiring local infrastructure contributions for SSD are not being applied consistently, as they are for locally approved development.

LGNSW is not aware of any mandatory framework to formalise the requirement for such contributions or to extend such contributions to benefit neighbouring councils that may be also directly affected because of the cumulative impacts of many developments in adjoining LGAs.

Recommendation 17: *In recognition of the significance of local government's role in the provision of local infrastructure to support state significant development, the Act should be amended to ensure that where an SSD project occurs within an LGA, mechanisms are in place to ensure that councils can have genuine input to the assessment of the project, including giving the council concurrence on the conditions of consent for SSD.*

Recommendation 18: *The Act should be amended to guarantee the payment of local infrastructure contributions for all SSD where there is a local contributions plan in place.*

5. Other comments on reform areas

5.1 Land value contributions

LGNSW supports the principle underlying this proposal, which in effect enables a value capture mechanism which is tied to the value of the land. The proposed new approach seeks to address the

¹⁴ <https://www.parliament.nsw.gov.au/lcdocs/submissions/73405/0098%20Local%20Government%20NSW.pdf>



challenges of escalating land costs faced by councils when acquiring land for public purposes. This is welcomed, however, its application appears to be complex.

Councils have sought confirmation from the department as to whether the land value contribution mechanism will be available to all councils where there are opportunities for areas to achieve uplift through rezoning, not just to greenfield councils. In addition to greenfield councils as modelled in the package, this new mechanism should be available for infill councils, where rezonings typically allow substantial development uplift. This is important to ensure that the infrastructure needed to support additional development density is properly funded.

Recommendation 19: *DPIE to confirm that the new land value mechanism will be available for infill councils as well as for greenfield councils.*

5.2 Resourcing implications

The reforms encompass potential increased administrative and compliance burdens for councils in the short to medium term. These new responsibilities relate to the implementation and administration of an entirely new contributions scheme, additional needs of the new centralised (digitised) contributions system, amendments to councils' plans, development of new plans and the integration of these plans within the Integrated and Performance Reporting Framework (IP&R) framework.

Recommendation 20: *It is critical that the NSW Government commits adequate resourcing, support and technical assistance if councils are to transition to this new framework.*

6. Conclusions

LGNSW acknowledges the immense challenge involved in improving the infrastructure contributions system while balancing the interests of all stakeholder groups. These are once-in-a-generation reforms that can ill-afford to be hastily conceived and their implementation rushed through.

LGNSW made known its concerns to the State Government about certain aspects of the Productivity Commissioner's Review and recommendations in 2020. These concerns, together with the manner in which the Bill was introduced in NSW Parliament in June, underpinned our opposition to the Bill and the sector's calls for the details in the reform package (including IPART's draft report on the review of the EWL and benchmarks) to be published prior to the Bill being allowed to progress.

LGNSW welcomed the pause on the progress of the Bill and has appreciated the Minister's and department's engagement with LGNSW and the local government sector to understand councils' legitimate concerns and to adjust the package accordingly. Given the scale and financial implications of this particular reform, it is prudent to give full consideration of the reform package and to fully explore and understand the cumulative and long-term effects of not only the changes to contributions, but the series of reforms to complying development, employment zones, revisions of SEPPs and the new Planning Principles.

As detailed in this submission, Minister Stokes' commitments have been welcomed, however, there is more work to be done to ensure these are upheld and reflected during the passage of the legislation and that, independent of the population growth rates reforms, no council is worse off as a result of these reforms. LGNSW urges the department to continue to work closely with the sector to ensure the settings and adjustments to the reforms satisfy all of the Minister's guarantees.



Summary of recommendations

In summary, LGNSW makes the following recommendations:

Recommendation 1: That the Minister's commitment that no council will be left worse off remains independent of the population growth rate reforms and is reinforced by:

- the NSW Government ensuring it has access to councils' modelling of the effects of the reforms; and
- the Department of Planning, Industry and Environment working with LGNSW and councils to adjust the settings as necessary to uphold the Minister's guarantee.

Recommendation 2: That the NSW Government, and any Minister with carriage of this legislation through Parliament, honours Minister Stokes' commitment to work with LGNSW to ensure all key reform adjustments, as discussed in this submission, are included in the primary legislation.

Recommendation 3: Amend the bill to include provisions that allow existing contributions plans to be grandfathered.

Recommendation 4: The 1 July 2024 timeframe for councils to review their existing contributions plans should be extended to 1 July 2025.

Recommendation 5: The NSW Government should give due consideration to delaying commencement of the new infrastructure contributions framework until January 2023.

Recommendation 6: Remove the provisions in the Bill that seek to make the temporary measures relating to timing of payments permanent and allow the current Ministerial Direction to lapse in March 2022 as intended.

Recommendation 7: Short of amending the Bill as recommended above, the Bill must limit the Minister's discretion to determine the development thresholds this direction will apply to (to projects of \$10 million or greater in line with the Minister's commitment).

Recommendation 8: In light of the Minister's commitment to provide financial assistance to councils experiencing cash flow problems as a result of the permanent application of this Ministerial Direction, the department should develop a process/guidelines to spell out how this will work.

Recommendation 9: LGNSW opposes any reform at any stage in the future that would expand this direction to apply to all development.

Recommendation 10: That any permanent extension of the Ministerial Direction on the timing of payments be subject to the corresponding implementation of PC recommendations 4.10 ii, iii and iv and that NSW Department of Planning, Industry and Environment confirm the status of their implementation.

Recommendation 11: Amend the Bill to include provisions that limit the expansion of RICs to other regions and/or make any future expansion of the RIC regions subject to a parliamentary process.

Recommendation 12: Amend the Bill to include appropriate transparency and public scrutiny of regional infrastructure contributions to ensure, in line with the Minister's undertaking, that expenditure of RIC funds remains within the region from which it is collected.



Recommendation 13: That DPIE ensure it obtains and reviews modelling information and other advice prepared by councils determining the impacts of proposed changes to s 7.12 and work with the councils and LGNSW to adjust the settings and provisions where necessary.

Recommendation 14: Commercially run non-government (private) schools and other education facilities should not be exempt from the requirement to pay the new local levy (s 7.12).

Recommendation 15: Amend the legislation to recognise the principle that infrastructure contributions should capture both the land and capital costs of providing core community facilities.

Recommendation 16: That council reviews of Local Strategic Planning Statements should remain at minimum seven years and the Bill be amended to delete the provision that proposes to require councils to review LSPS at least every 5 years.

Recommendation 17: In recognition of the significance of local government's role in the provision of local infrastructure to support state significant development, the Act should be amended to ensure that where an SSD project occurs within an LGA, mechanisms are in place to ensure that councils can have genuine input to the assessment of the project, including giving the council concurrence on the conditions of consent for SSD.

Recommendation 18: The Act should be amended to guarantee the payment of local infrastructure contributions for all SSD where there is a local contributions plan in place.

Recommendation 19: DPIE to confirm that the new land value mechanism will be available for infill councils as well as for greenfield councils.

Recommendation 20: It is critical that the NSW Government commits adequate resourcing, support and technical assistance if councils are to transition to this new framework.

* * *

LGNSW would welcome the opportunity to assist with further information to ensure the views of local government are appropriately considered.

To discuss this submission further, please contact Executive Manager Advocacy, Kelly Kwan at kelly.kwan@lgnsw.org.au or on 02 9242 4038.



ATTACHMENT 1 Minister's commitments

LGNSW position	Government response	Reference & recommendation in submission
It is essential that councils and communities are not left worse off by the NSW Government's infrastructure contributions reform agenda.	I reiterate my commitment that no council will be worse off as a result of these reforms.	Refer to section 3.1 Recommendation 1
Reform of the rate peg		
Reform of the rate peg should proceed independently of changes to infrastructure contributions.	The Minister for Local Government has endorsed the recommendations of the Independent Pricing and Regulatory Tribunal (IPART) for reforms to council rates – so it will proceed separately from infrastructure contributions reform.	Refer to section 3.1 Recommendation 1
Parliamentary oversight		
Key reform adjustments should be included in the primary legislation to ensure appropriate Parliamentary oversight.	The adjustments to the reform package I have committed to will form part of the legislative amendments currently before Parliament. I will work with LGNSW to ensure this occurs as part of the Bill progressing in the Legislative Council.	Refer to section 3.2 Recommendation 2
Timing of infrastructure contributions payments		
<p>All developer contributions payable to a council should be required prior to the PCA issuing the <i>construction certificate</i> or <i>complying development certificate</i> (as relevant), except with the written consent of the council to delay the payment.</p> <p>The temporary COVID-19 Ministerial Direction should lapse in March 2022 as initially intended.</p> <p>Financial assistance should be provided for those councils who can demonstrate a cash flow problem with commencing essential infrastructure projects identified in contributions plans until such time as sufficient contributions are collected under those plans.</p>	<p>We won't expand the Ministerial direction about when local contributions are to be paid beyond the current settings.</p> <p>Payment at occupation certificate has applied to high-value projects since mid-2020 and this will not be expanded to all development, as recommended by the Productivity Commissioner.</p> <p>I will seek financial assistance for councils that can demonstrate cash flow problems resulting from my directions about the timing of local contribution payments.</p>	Refer to section 4.1. Recommendations 6, 7, 8, 9 & 10
Regional Infrastructure Contributions		
The payment of a Regional Infrastructure Contribution by a proponent to the NSW Government should be independent of the payment of an infrastructure contribution to the council.	<p>There will be no reduction in council contributions caused by the new regional infrastructure contribution.</p> <p>The RIC is paid by developers separately to local infrastructure contributions and will be spent in the region it is charged from.</p> <p>RICs will be spent in the region they are collected from, and the funding priorities will be determined based on the</p>	Refer to section 4.2. Recommendations 11 & 12



All Regional Infrastructure Contributions levied for development within a region should be expended on infrastructure within that region in accordance with an approved Regional Plan linked to councils Local Strategic Planning Statements.	applicable strategic planning framework (which includes LSPs based on district and regional plans.)	
Local Strategic Planning Statements		
Council reviews of Local Strategic Planning Statements shall remain at seven years.	Verbal commitment during meeting with LGNSW.	Refer to section 4.6 Recommendation 16
Appeal rights		
There should be no appeal rights available if local infrastructure contribution conditions are imposed in accordance with a contributions plan.	There will be no change to existing section 7.11 and section 7.12 appeal rights in this package.	Refer to section 4.3
Section 7.12 contributions		
Section 7.12 levies should be calculated on a maximum percentage levy not less than 3%. The Act should be amended to guarantee the payment of local infrastructure contributions for all State Significant Developments.	We've heard the concerns about the Productivity Commissioner's suggested rates for section 7.12 levies being too low, so we've reset the rates to reflect a true 3% construction cost for residential development and 1% for commercial, industrial and retail development. The rates will be indexed to ensure they keep pace with constructions costs. We've also extended the levy to residential knock-down and rebuilds, alterations and additions that increase demand and commercial refits. We'll invite councils to model these changes during exhibition to make sure they stack up. We've heard your concerns about wind and solar development and will increase the maximum contribution , because it's currently too low. Instead of a maximum \$300,000, the threshold will be raised to \$450,000.	Refer to sections 4.4 & 4.7 Recommendations 13, 17 & 18
Essential works list and benchmarking		
The Essential Works List should not be further restricted to development contingent costs.	There will be no changes to the existing settings for the essential works list applying to section 7.11 plans. In three years we will review the settings against the Productivity Commissioner's recommendations and the implementation of the other components of the reform, in consultation with the local government sector.	Refer to section 4.5 Recommendation 15

11.4 PROPOSED NSW GOVERNMENT REZONING REFORMS - SUBMISSION

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Donna Ausling, Manager Strategic Planning

Attachments:

1. Rezoning Reform Discussion Paper [↓](#)
2. Draft Council Submission on NSW Government Rezoning Reform Discussion Paper [↓](#)

DELIVERY PROGRAM ALIGNMENT**2 Environment**

Objective 2.1 We will maintain our open spaces, natural environment and heritage for future generations

Strategy 2.1.2 Planning controls appropriately identify and conserve open spaces and natural environmental areas

EXECUTIVE SUMMARY

The NSW Department of Planning and Environment (DPE) has recently released a discussion paper – *A New Approach to Rezoning*, as an initiative of its Planning Reform Action Plan

Due to the timing of the exhibition period over the Christmas closedown and the local government election cycle, DPE have advised of their willingness to accept a late, Council-endorsed submission. At the DPE's recommendation an 'officer level' submission has been prepared and submitted for the consideration of DPE separately. The draft Council submission makes a number of recommendations and observations which aims to ensure that the reform program meets the needs of the Narrabri community.

RECOMMENDATION

1. That Council make a submission to the NSW Department of Planning and Environment on the Discussion Paper – *A new Approach to Rezoning* in accordance with the draft submission attached to this Report.

BACKGROUND

The NSW Department of Planning and Environment (DPE) has recently released a discussion paper – *A New Approach to Rezoning*, as an initiative of its Planning Reform Action Plan. A copy of the DPE discussion paper is enclosed for the information of Council.

As part of this Action Plan, the DPE has considered opportunities to reduce timeframes for assessing Planning Proposals, streamlining of processes, and introduction of a new class of merit appeals in the NSW Land and Environment Court for Planning Proposals.

The discussion paper was publicly exhibited by the DPE until 28 February 2022. In response to the exhibition period an 'Officer level' submission was made. An extension was granted by the DPE for a Council-endorsed submission.

CURRENT SITUATION

Within the Narrabri Shire Local Government Area the permissibility of development, and the environmental assessment and approvals regimes which apply to development on a particular piece of land, are governed principally by the *Narrabri Local Environmental Plan 2012* (the NLEP). The NLEP identifies the zoning of the land, permissible and prohibited land uses within that zone and the key controls which apply to development, such as height, density and minimum lot size.

The process of amending an LEP currently involves several complicated steps which generally take approximately two (2) years. Planning Proposals which entail an LEP amendment often go twice to Council meeting, before the 'gateway' and 'finalisation' phases, and twice to the NSW Government.

As the discussion paper acknowledges, "the rezoning process has become unwieldy, resulting in weaker planning outcomes, unnecessary delays and higher costs". To address these issues, the NSW DPE discussion paper proposes the following key changes to the land rezoning regime. Council's Strategic Planning Team have reviewed these particular elements and have provided associated commentary which is reflected in the draft Council submission enclosed with this report.

1. Introduction of a pre-lodgement scoping phase

Before submitting a rezoning application, proponents would prepare a scoping report and attend a scoping meeting with the rezoning authority. The rezoning authority would then proceed to issue site specific study requirements (SSSRs) together with written feedback on the rezoning proposal's consistency with strategic planning documents. The SSSRs would identify the technical reports and other supporting material which are needed to accompany the rezoning application.

Strategic Planning Team Commentary:

Provision for pre-lodgement requirements is considered essential as part of any scoping phase.

2. Removal of the gateway determination stage

The gateway determination stage would be removed and replaced with the pre-lodgement scoping stage. It is considered that adequate separation is in place with the current LEP gateway processes. Removal of this function and consolidation of decision-making powers creates a corruption risk which is unlikely to be able to be adequately managed under this proposed new system. The Department's attention is also drawn to the ICAC Discussion Paper - Corruption Risks in NSW Development Approval Process (2007). In respect of the management and balancing of environmental, social and economic resources for the development of land, personal interests can motivate some to make improper decisions. Accordingly, instances of corruption in town planning have appeared frequently in the ICAC's 30-year history and remain an ongoing issue of concern. The proposed reforms will do little to circumvent such risks.

Strategic Planning Team Commentary:

The current gateway process has proved generally effective to mitigate undesirable planning proposals being pursued. Its original intent to provide greater certainty as a 'checkpoint' to prevent significant investment in proposals that had limited strategic merit would be circumvented by the reforms, once again, potentially creating project risk and uncertainty.

Transitional arrangements from the current gateway processes to the new framework will require careful consideration and management.

3. Public exhibition of the rezoning application to occur shortly after lodgement

Once a rezoning application has been lodged, the rezoning authority would have seven (7) days to confirm whether the application satisfies the SSSRs and, if not, reject the application for rezoning. If it complies, the rezoning application would be placed on public exhibition.

Strategic Planning Team Commentary:

The requirement for a one (1) week turnaround for lodgement, as detailed on page 13 of the Discussion Paper, is considered unrealistic and inappropriate.

4. Categorisation of proposals and related timeframes

Each rezoning proposal would be categorised according to the extent of the proposed change, its consistency with applicable strategic plans and its complexity. There is proposed to be four (4) categories (Basic, Standard, Complex and Principal LEP), each with associated timeframes.

Strategic Planning Team Commentary:

Clear guidelines on categorisation of Rezoning Applications would need to be provided by the Department to provide appropriate clarity and manage community and developer expectations. The proposed category of de-listing of heritage items as basic or otherwise, is currently considered unclear.

5. Introduction of a merit appeal right for proponents

A proponent would have a right to appeal the rezoning authority's refusal or "deemed refusal" (i.e. no decision after a prescribed period of time). While the discussion paper suggests the appeal would be similar to what currently exists for a development application, it considers two (2) appeal options – The NSW Land and Environment Court and the Independent Planning Commission.

Strategic Planning Team Commentary:

The proposed appeal processes are not supported. It is considered that such amendments would create an increased financial and resourcing burden for councils and lead to community and proponent uncertainty, in addition to poorer local planning outcomes.

Access to the Parliamentary Counsel's Office (PC) can be challenging, particularly given current backlogs. It is apparent that additional resourcing is required to assist PC in this regard. Planning Teams have historically faced some 'roadblocks' with respect of conveying legislative intent to PC from rezonings or LEP amendments which can contribute to uncertainty. Should the appeals processes be introduced, this is likely to become even more complex.

6. Introduction of a "planning guarantee" for application fees

A proponent would have the right to a refund of its application fees for rezoning proposal where a determination of its application is not made within the statutory assessment period (i.e. the "deemed refusal" period). A rezoning authority would still be required to progress the assessment of rezoning application, even if it has refunded the application fees.

Strategic Planning Team Commentary:

It is not considered appropriate to incorporate fee refund arrangements as part of a regulatory reform program. This particular element is strongly opposed and will create considerable uncertainty for councils, particularly in respect to financial management processes. Additionally, many delays are not a result of Council inaction, rather, are resultant from process or procedural-allied impediments at the proponents-end, or with respect to lagging Agency response times. It is not considered appropriate for councils to be borne with such a liability and prospective penalty for matters outside of their sphere of influence and/or control.

Additional Strategic Planning Team Feedback:

- The proposed amendments will potentially compromise the objectives and overall intent of the impending Design and Place State Environmental Planning Policy (SEPP).
- Fees should not be mandated and should remain at the discretion of each Council. Whilst the financial support detailed on page 19 of the Discussion Paper would be welcomed, a similar 'promise' was made with respect to ongoing access to Planning Reform Funding (PRF). Such funding has now been unavailable to local government for many years. The longevity of such funding arrangements is therefore considered highly questionable.
- It is considered that changes and exhibition during the local government caretaker period and Christmas are largely disingenuous and not consistent with the Minister's Planning Principles. The system appears to be actively moving away from genuine consultation.
- The movement of merit assessments to the end of the process will create greater uncertainty for the proponent, Council and the community. This approach is considered inappropriate and will create pressure on Council's Planning Team to approve undesirable proposals. The approach is also likely to occasion associated probity and corruption risks that do not largely exist within the current framework. It is considered that the reforms will encourage speculative applications, which is contrary to the overall intent of the strategic planning framework.
- Council's Planning Team are unopposed to benchmarking, as this will guide decision-making processes and resourcing. This should, however, only be for guidance purposes and should not be legislated due to the complex nature of such planning matters and ongoing challenges for regional/rural councils to attract suitably skilled and qualified planning practitioners.

Due to the timing of the exhibition period over the Christmas closedown and the local government election cycle, DPE have advised of their willingness to accept a late, Council-endorsed submission. At the DPE's recommendation an 'officer level' submission has been prepared and submitted for the consideration of DPE separately. The draft Council submission makes a number of recommendations and observations which aims to ensure that the reform program meets the needs of the Narrabri community.

FINANCIAL IMPLICATIONS

Detailed in the body of the Report.

STATUTORY AND POLICY IMPLICATIONS

Detailed in the body of the Report.

CONSULTATION

External Consultation

Nil.

Internal Consultation

- Statutory Planning (Development) Team.



A new approach to rezonings

Discussion paper

December 2021



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A new approach to rezonings

Acknowledgment of Country

The Department of Planning, Industry and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

NSW Department of Planning, Industry and Environment | i

A new approach to rezonings

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Introduction

Ongoing reforms to the NSW planning system aim for a 'plan-led' system – an approach that ensures strategic planning is the foundation for all decisions about potential land-use changes.

We will achieve this by strengthening the strategic planning framework within planning legislation, giving greater emphasis to place-based planning early in the process and by addressing specific issues within the administration of the planning system.

Changing the zoning of land or the controls applying to land – referred to in this paper as the **rezoning process** – translates strategic planning into statutory controls. However, the rezoning process has become unwieldy, resulting in weaker planning outcomes, unnecessary delays and higher costs.

We continue to see a large volume of rezonings or changes to land-use controls happening within a process that can be complex and time-consuming. These inefficiencies create opportunities for delays.

As we strengthen strategic planning and place-based planning through ongoing reforms, we expect to see fewer ad hoc, site-specific rezonings that are more likely to cause these inefficiencies. However, we know that we need to improve current processes to optimise the economic and environmental benefits of development within an efficient planning system.

The economic benefits of an efficient and consistent rezoning process should not be underestimated – especially as we recover from the impact of the COVID-19 pandemic. A more streamlined and predictable process will help encourage investment, improve supply and create jobs.

This discussion paper outlines options to reframe existing processes within a plan-led system – whether the rezoning process applies to a review of an entire local environmental plan (LEP) or the assessment of an ad hoc rezoning application.

Land-use zones or controls can be changed by making or amending an LEP or state environmental planning policy (SEPP). This discussion paper focuses solely on the rezoning processes that happen using planning proposals to make or amend LEPs or SEPPs.¹ It does not include state-led rezonings.

Our proposed approach balances the need for a responsive and flexible planning system with the robust processes that maintains good planning outcomes. This new approach aims to support a stronger strategic planning process so that, collectively, we will continue to see great outcomes for people, places, jobs, housing and public spaces by:

- simplifying the rezoning process and minimising duplication
- improving transparency
- improving consultation processes
- reducing processing times
- creating more certainty and consistency
- empowering councils to make decisions on matters important to their communities while allowing the NSW Government to deal with matters where government intervention is beneficial
- giving private proponents control and responsibility for rezoning requests
- improving the quality of planning proposals.

¹ LEPs are sometimes used to amend SEPPs where provisions are site-specific or are specific to a local government area, for example SEPP (Sydney Region Growth Centres) 2006.

A new approach to rezonings

The reframing of the rezoning process is part of the NSW Government's Planning Reform Action Plan – a set of structural reforms to create a planning system that is transparent, faster, more certain and easier to use. The reforms include initiatives to:

- improve the planning proposal system and reduce processing times by a third by 2023
- establish an appeals pathway for planning proposals to overcome delays and progress rezonings that are consistent with strategic planning.

As part of the action plan, we have consulted with industry, councils and the planning profession on how best to address the current backlog of planning proposals and set the direction for improvements. From this work, we've established several initiatives to optimise the existing system. This includes the release of the new Local Environmental Plan Making Guideline (LEP Guideline), which implements several process improvement actions including:

- best-practice process and procedures to assist in the timely assessment of planning proposals
- targeted pre-lodgement services
- clear benchmark timeframes for steps in the process
- categorisation of planning proposals to inform timeframes as well as information and public exhibition requirements
- clearer roles and responsibilities throughout the process.

Through the processes outlined in this discussion paper, we're looking to consolidate and expand on these initiatives into the future.

Getting involved

We encourage feedback on the new approach to rezoning and the policy responses and options set out in this paper.

We have set out a proposed new approach by giving information on:

- the background, case for change and opportunity for reforms (Part A)
- the proposed new approach (Part B)
- the proposed appeals process (Part C)
- implementation (Part D).

Get involved by visiting www.planningportal.nsw.gov.au/rezoning-new-approach and provide your feedback by **Monday, 28 February 2022**.

From the feedback we receive, we will refine the rezoning approach with a view to implementing change in 2022.

We will work with councils, the development industry and state agencies to support the transition to a new approach. We will also prepare guidance material and provide training and ongoing policy support.

Before we begin: key concepts and terms

One of the aims of this discussion paper is to create a system that better aligns the rezoning process with strategic planning. Strategic planning guides long-term planning for the state's regions, districts and local communities, using a longer-term view to clarify what might happen, when, why and where.

Strategic planning requires a broader consideration of how best to shape a sustainable future for a region, district or local government area (LGA). The process guides the decisions that planning

A new approach to rezonings

authorities make about land use and development, environmental sustainability and the integration of transport and infrastructure.

By going beyond individual development proposals, strategic planning can capture an agreed vision for the future of an area, drawing from evidence about the attributes that makes places unique, the characteristics to retain and enhance, economics, the changing climate and the aspirations that people have for their community.

Higher-level strategic plans apply to:

- the 10 regions of NSW, through regional plans
- Greater Sydney, through the Greater Sydney Region Plan
- the 5 districts of Greater Sydney, through district plans that align with the Greater Sydney Region Plan.

These plans inform councils' local strategic planning statements for each LGA. Councils also develop local housing strategies or other strategies to further focus on requirements for their area.

Strategic plans are implemented through environmental planning instruments such as SEPPs and LEPs (supported by development control plans – DCPs).

The Minister for Planning and Public Spaces recently released the Minister's Planning Principles which will guide strategic and land use planning and strengthen the place-based approach.

The NSW strategic planning hierarchy is shown in Figure 1.

Refer to the list of regularly used terms or find out more in the [Community Guide to Planning](#).

Regularly used terms

- **Development control plans (DCPs)** provide more detailed guidance for development.
- **Environmental Planning and Assessment Act 1979 (EP&A Act)** is the primary planning legislation in NSW.
- **Independent Planning Commission (IPC)** makes independent decisions on complex development proposals of state significance and provides advice.
- **Land and Environment Court** hears merit appeals and process challenges between planning authorities and individuals or organisations.
- **Local environmental plans (LEPs)** set out rules to regulate development and land use in local government areas (LGAs). They are made by the Minister for Planning and Public Spaces or a council.
- **Local Environmental Plan Making Guideline (LEP Guideline)** provides a detailed explanation of the steps of the LEP-making process to assist and guide councils, communities, state agencies, proponents, and practitioners.
- **Minister's Planning Principles** guide strategic and land use planning and inform the development of planning policies. The principles seek to achieve outcomes across nine policy focus areas: planning systems; design and place; biodiversity and conservation; resilience and hazards; transport and infrastructure; housing; industry and employment and resources and energy.
- **Section 7.11 Infrastructure Contributions Plan** sets out how councils will levy contributions towards the cost of providing local infrastructure and lists a schedule of that infrastructure.
- **Section 9.1 ministerial directions** (s. 9.1 directions) provide broad policy directions that guide plan-making in the broad categories of employment and resources; environment and

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heritage; housing; infrastructure and urban development; hazard and risk; regional planning; local plan-making and metropolitan planning.

- **Standard Instrument** is the basis for preparing a new LEP using standard zones, definitions, clauses and format.
- **State environmental planning policies (SEPPs)** allow for a consistent, state-wide approach to development, infrastructure, industry or other environmental or social matters, or they may apply to state-significant development. They have a wide scope and can apply to the whole of the state or a particular area. The Governor of New South Wales makes them on advice from the Minister for Planning and Public Spaces.
- **State-led rezonings** focus on precincts where there is a strategic imperative for the Department of Planning, Industry and Environment to lead the process, including places that benefit from current or future city-shaping infrastructure or investment, and where we can create great public spaces in collaboration with councils and communities. These rezonings generally occur under a SEPP.



Figure 1. Strategic planning hierarchy

A new approach to rezonings

Part A: Background

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The process today

Local environmental plans (LEPs) set out how land can be developed and used in a local government area through zoning and other development controls. They are the legal embodiment of planning controls necessary for strategic planning ambitions.

Land-use zones illustrate the objectives for that area – what land uses are allowed, and the approvals required. Zone types range from residential and commercial to those for industrial uses or open space.

Along with zoning, LEPs also contain development standards, specific considerations and site-specific controls such as additional permitted uses.

Rezoning and planning proposals

There are many reasons why land might need to be rezoned or other changes to a LEP might be needed. This might be to respond to strategic planning – for example, if new transport infrastructure is being developed, it makes sense for the area around the transport hub to include higher density housing or shops and services – or it could be to change a zoning to allow for new development envisaged in a local strategic planning statement.

Rezoning occurs when an LEP is made or amended – whether a zone and its objectives are amended, planning controls are amended or an LEP is reviewed. Rezoning occurs through a planning proposal that sets out the intended effect of the rezoning, or the new LEP, and the justification for the proposal.

A council or private landowner can initiate the rezoning process. Rezonings initiated by private landowners are often called ‘spot rezonings’ or ‘proponent-initiated planning proposals’ and must be supported by the council before they can progress further.

Councils, as the planning proposal authority (PPA), then submit planning proposals that they support to the department for gateway determination.

Gateway determination

The gateway determination ensures there is sufficient justification for a planning proposal to progress. It involves an early check on whether it is consistent with the strategic planning framework and relevant section 9.1 ministerial directions (s. 9.1 directions).

Gateway determinations are issued with conditions to guide the PPA for the next stage of the process: the exhibition of the planning proposal, community consultation and, if required, consultation with relevant state agencies. These conditions form the regulatory context for the preparation, exhibition and finalisation of the rezoning.

After council manages this process, the local plan-making authority (LPMA) – the minister, or a delegate, or the council – finalises the rezoning by drafting and publishing the new or amending LEP, along with maps, on the NSW Legislation website, www.legislation.nsw.gov.au.

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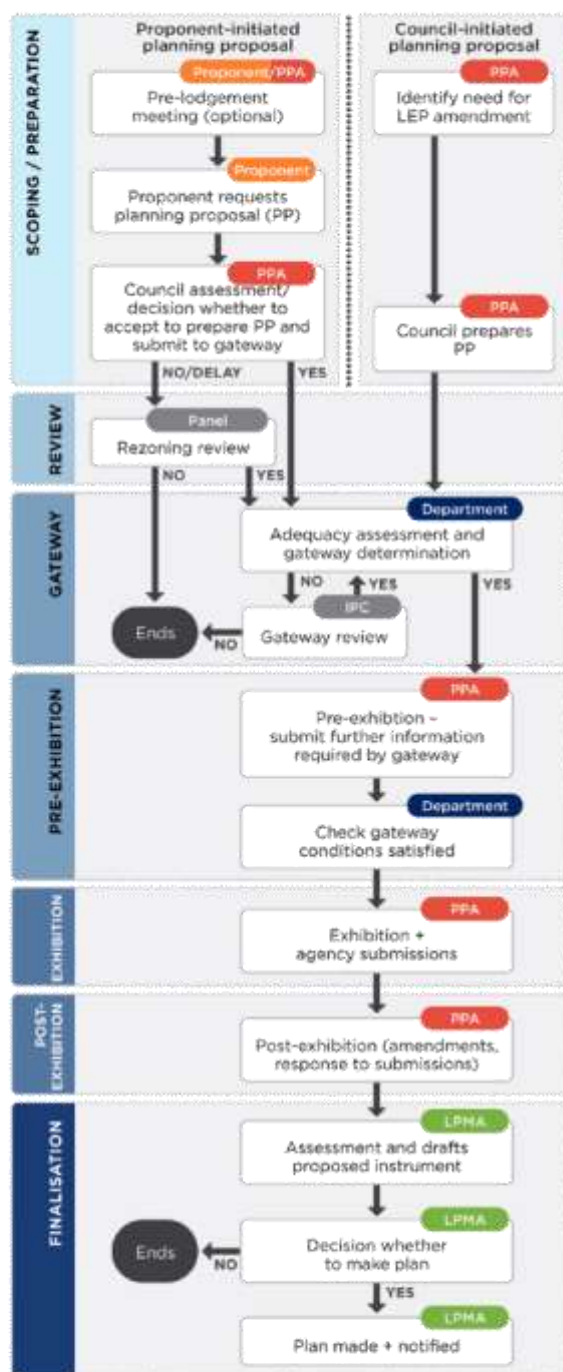


Figure 2. Current rezoning framework

The need for reform

As part of the Planning Reform Action Plan, we've talked to many stakeholders to understand how best we can reduce the processing time for planning proposals; increase quality, place-based outcomes; and establish a workable appeals pathway.

Rezonings need to be an effective planning tool that can meet the objectives of strategic plans in a certain and timely way. Uncertainty about rezoning timeframes and process can affect developer confidence and the overall viability of projects, or the timing of housing supply. Uncertainty can also cause community disengagement and less public participation in the planning system.

Engagement process

Our engagement process included:

- nine workshops, attended by 63 councils
- survey feedback from 75 councils
- internal workshops and meetings with state agencies
- presentations to industry representatives
- meetings with regional planning panel members
- one-on-one meetings with councils and industry, where required.

We also worked through working groups including councils, industry and Land and Environment Court users – as well as state agencies, and regional and district planning panels – on the initiative for a new appeals pathway.

Time and complexity

Stakeholders told us the planning proposal process takes too long, is overly complex, and needs more transparency and accountability. This is backed up by the recent work of both the NSW Productivity Commission and Australian Government's Productivity Commission:

- The NSW Productivity Commission found the NSW planning system has become too complex and inefficient. It has recommended the need to reduce red tape and complexity.
- The federal Productivity Commission found that the rezoning process can be time-consuming, costly and uncertain. It recommended shorter timeframes for planning proposals (while maintaining integrity) and a policy to avoid spot rezonings (the rezoning for a specific parcel of land), or to remove redundant requirements or apply statutory timeframes for decisions where they cannot be avoided.

This feedback is also backed up by the data: it can take several years to finalise a rezoning, with the average end-to-end processing times rising to an average of 114 weeks in 2019. Since 2019, the department has worked to clear the backlog of older planning proposals and reduce processing times, which was down to an average of 89 weeks as of 30 June 2021.

Delays and complexity can be attributed to:

- **Timeframes** – There is a lack of accountability and certainty about timeframes, including for the exhibition process and agency submissions. For example, legislation prescribes timeframes and appeal rights for the assessment of development applications, but there is no equivalent legislative requirement for planning proposals.
- **Duplication of assessment** – Planning proposals often go twice to a council meeting (before gateway and before finalisation), and twice to the department (at gateway and finalisation).
- **Gateway process** – The gateway process can be onerous and is sometimes unnecessary, resulting in delays and transparency issues, according to some councils. We heard an idea to remove the gateway process for regional areas to speed up the assessment of projects that can add immediate value.
- **Finalisation stage** – Delays in the finalisation stage, particularly for the drafting of the LEP changes and mapping stages, are a concern for councils.

Inconsistencies

There are inconsistencies in documentation requirements, the availability and rigour of pre-lodgement processes, and consultation requirements before the gateway determination. We also heard that stakeholders find inconsistencies in assessment requirements, how 'strategic merit' is interpreted, and the roles and responsibilities of different government authorities.

Early documentation can be inadequate, as the requirements or documentation that must be submitted when lodging a planning proposal are unclear – the existing planning proposal guidelines² are not interpreted consistently. This adds time as additional information is often required. Conversely, documentation requirements for the assessment process can be onerous, too detailed and should instead be tailored to the scale and complexity of the planning proposal.

These issues could be addressed at meetings before lodgement, yet these are not mandatory. When offered, they vary in formality. There is no obligation for proponents to ensure their proposal is consistent with pre-lodgement advice.

Advice may also differ, given the different interpretations of strategic merit. A planning proposal should have strategic merit, yet there are mixed views about how to justify this and how a council will measure it before the planning proposal goes to gateway determination. Some councils use their own guidelines, while others test for strategic and site-specific merit.

We also see varied approaches to community consultation before the planning proposal goes to gateway determination. While it is not required, some councils will consult multiple times throughout the process, which can keep the community informed but is duplicative and extends timeframes.

Roles and responsibilities are not clear, so there is uncertainty about who is accountable for updating mapping and other issues.

Transparency and trust

Greater accountability and transparency are required for all parties involved in the planning proposal process. The community must be engaged in the strategic planning process, including how planning authorities consider and interpret the drivers and need for change. There is a perception among the community that, with considerable work completed before the gateway

² [Planning Proposals: A guide to preparing Planning Proposals](#) (December 2018)

A new approach to rezonings

determination, decisions are already made. Councils also want better communication with the department, particularly before planning proposals are exhibited and finalised.

Review mechanisms, such as planning panels, are not widely known and not clearly defined in legislation.

Transparency and trust issues arise when communities see a council reject a planning proposal that is later approved through the review process.

Council resourcing

Some councils have told us they do not have adequate resourcing and funding for strategic planning, assessing and progressing planning proposals, or for taking part in court proceedings. This means strategic planning documents may not be as detailed nor as up to date as they could be. Spot rezonings are then used to fill the gaps to provide land for housing, jobs or public spaces.

Councils have varying human and financial resources, which can make processes longer and inconsistent. There is limited funding for council-led strategic studies or planning, or for any additional training, education sources or templates. Councils, particularly in regional NSW, would welcome more support from the department through the planning proposal process.

Local decision-making is essential – council autonomy is important to both councils and their communities. Councils want greater empowerment to reject planning proposals in early stages of the process before doing a full assessment, and they seek a greater decision-making role. This is especially the case when a proposal is inconsistent with local strategic planning.

Recognition of proponents

Existing legislation does not directly acknowledge proponent-initiated planning proposals – instead, councils undertake these proposals on behalf of proponents. Around 45% of all planning proposals finalised between July 2018 and June 2020 were proponent-initiated. Review processes for proponents where there is a delay or proposals are rejected are only available the early stages of the planning proposal process.

Proponents want reform that acknowledges their role, provides greater access to state agencies and gives clearer, more consistent timeframes. Industry groups have highlighted the need for a circuit breaker when councils delay decisions or reject proposals that are consistent with strategic plans.

State agency input

State agencies would prefer to be involved earlier in the rezoning process, and for the right level and scope of input required to be clearer. They support the need for reasonable timeframes.

Without this early involvement, and potentially because of the lack of clarity, stakeholders reported that engagement with state agencies is a significant pain point. This leads to perceptions within industry that contact with or feedback from state agencies is difficult and that the agencies themselves lack accountability when responding to or resolving issues.

There is a further perception that state agencies are either under-resourced or reluctant to get involved unless the issue directly affects their work. Referrals seem to get lost in the system.

What do you think?

Is this a fair summary of some of the issues within the current framework? Are there any other problems you think we need to address?

A new approach to rezonings

Part B: The new approach

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Introduction

In response to feedback, we have developed a new approach for rezonings which, with other reforms, could significantly improve the plan-making process.

In summary, the proposed new approach:

- creates a streamlined and efficient process for LEP amendments that align with strategic planning objectives
- sets clear matters for consideration, timeframes and a consistent fee regime to give greater certainty in the process
- allows councils to receive and determine private proponent-initiated LEP amendments, with no or minimal department involvement in assessment
- allows the minister to receive and determine, through the department, other LEP amendments, including those prepared by councils and public authorities
- bolsters the department's role in supporting, monitoring and assisting councils in the process
- requires LEP amendments to go through a mandatory and upfront pre-lodgement process
- shifts all merit assessment processes to after exhibition
- gives private proponents a right of appeal against the final decision.

The new approach has been designed to align more closely with the development application process. In addition to other benefits, we believe making the processes more consistent may increase the number of combined rezoning and development applications, a mechanism which is underused. Concurrent applications bring about greater economic benefits as development can happen more quickly. This approach also gives the community greater certainty as to the type and form of development that will ultimately end up on the rezoned site.

We estimate that the new approach will build on existing timeframe improvements from the last year and result in more time savings, especially for simple rezoning applications that are consistent with strategic plans.

These time savings will mainly happen by removing duplication in who assesses the application and how often it is assessed throughout the process.

A new approach to rezonings

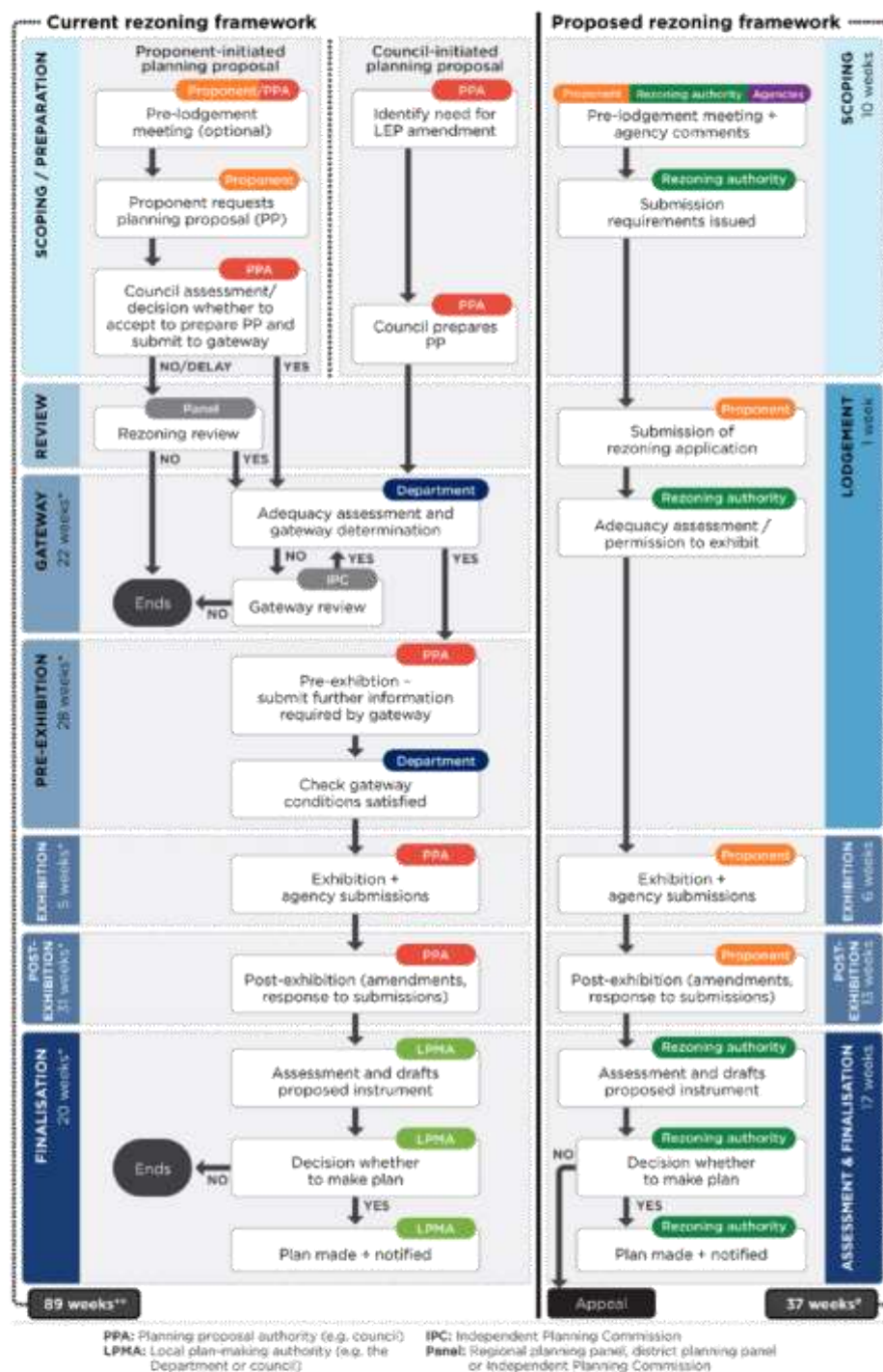


Figure 3. Comparing the current and proposed rezoning frameworks

A new approach to rezonings

Key for Figure 3

*Average assessment timeframe for each stage for the period of 1 January to 30 June 2021. There are no timeframes for the scoping/preparation stage (as these are not tracked) or rezoning review (which is optional).

**Reported end-to-end average assessment timeframe for planning proposals (between the gateway and finalisation stages) at 30 June 2021. The average assessment timeframes for each stage does not add up to the reported end-to-end average assessment timeframe.

#Proposed benchmark timeframes for each stage and end-to-end assessment timeframes are based on a standard rezoning application (total timeframe excludes scoping).

New terminology

The new approach begins by clarifying the terms used for planning proposals.

A proponent-initiated application to amend an LEP is currently known as a rezoning request. It is only known as a planning proposal once a council supports it. All council-led processes are called planning proposals.

Our new approach suggests that all these processes should simply be called rezoning applications.

Planning proposals are currently led by the planning proposal authority (PPA), which is usually the council. The PPA is the 'owner' of a planning proposal and ultimately responsible for its progression. The minister³ is then responsible for making a gateway determination. The local plan-making authority or LPMA (the minister or the council, where authorised) is then responsible for the final assessment and making (or not making) the LEP.

However, the EP&A Act does not directly recognise private proponents or public authorities who can submit a rezoning request to a council and who will often undertake or pay for most of the work to prepare a request.

The interaction between these parties is complicated and leads to duplication. For example, both a council and the minister will assess the merit of proposal at the gateway determination and the finalisation stage. A council can be both the PPA and the LPMA, which can be confusing.

Our proposed new terminology is a shift to a more streamlined process that reflects the roles played in practice.

Table 1. Current and proposed terminology

Current	Proposed	Description of proposed role
Rezoning request/planning proposal	Rezoning application	An application to make or amend an LEP.
<ul style="list-style-type: none"> Private proponent (not recognised) Public authority proponent (not recognised) PPA ('owner' of the planning proposal, usually council) 	Proponent (private, public authority or council)	A rezoning application lodged by a: <ul style="list-style-type: none"> private individual or corporation public authority, including a state-owned corporation council for changes to their LEP.
LPMA (makes the LEP)	Rezoning authority	The party responsible for assessing and determining the rezoning application. This could be a council or the minister, depending on the type of rezoning application.
Gateway	N/A	Included in the rezoning authority function.

³ Throughout this paper, references to functions of the Minister for Planning and Public Spaces will often be carried out by the department, as the minister's delegate.

New categories and timeframes

Clearer timeframes for completing each step in the rezoning process gives stakeholders certainty and encourages better performance. Our proposed timeframes will apply to councils, the department, state agencies and private proponents, depending on the category of the rezoning application.

Categorising all rezoning applications during a pre-lodgement process could inform timeframes, as well as information and public exhibition requirements, and fees.

We have developed 4 categories. These will first be applied in the existing process through the new LEP Guideline and, ultimately, as part of the new approach.

Table 2. New categories and descriptions

Category	Description
Category 1 (Basic)	<p>Administrative, housekeeping and minor local matters such as:</p> <ul style="list-style-type: none"> • listing a local heritage item, supported by a study endorsed by the department's Environment, Energy and Science group • reclassifying land where the Governor of NSW's approval is not required • attaining consistency with an endorsed local strategy, such as a local housing strategy • attaining consistency with section 3.22 (fast-tracked changes of environmental planning instruments of the EP&A Act).
Category 2 (Standard)	<p>Site-specific rezoning applications seeking a change in planning controls consistent with strategic planning, such as:</p> <ul style="list-style-type: none"> • changing the land-use zone if a proposal is consistent with the objectives identified in the LEP for that proposed zone • altering the principal development standards of the LEP • adding a permissible land use or uses and/or any conditional arrangements under Schedule 1 Additional Permitted Uses of the LEP • ensuring consistency with an endorsed strategic planning or local strategic planning statement • classifying or reclassifying public land through the LEP.
Category 3 (Complex)	<p>Applications that may be not consistent with strategic planning, including any LEP amendment not captured under category 1 or 2. Examples include:</p> <ul style="list-style-type: none"> • changing the land use zone and/or the principal development standards of the LEP, which would increase demand for infrastructure and require an amendment to or preparation of a development contribution plan • responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends • requiring a significant amendment to or preparation of a development contribution plan or a related infrastructure strategy • making amendments that aren't captured as principal LEP, standard or basic planning proposal categories.

A new approach to rezonings

Category	Description
Category 4 (Principal LEP)	A comprehensive or housekeeping rezoning application led by council, proposing broadscale policy change to the LEP for the whole LGA.

The introduction of categories:

- gives all parties certainty and consistent timeframes, fees and information requirements
- informs decisions about whether council can be the rezoning authority for straightforward rezoning applications where the council is also the proponent
- improves the department's ability to monitor the progress of different types of rezoning applications to identify common roadblocks or opportunities for greater efficiencies.

Table 3 sets out estimated benchmark timeframes for each stage and category of the new approach. This does not include scoping, nor the time between scoping and lodgement required to prepare the application. These are maximum timeframes; in most cases we anticipate a shorter timeframe.

The timeframes are based on analysis and stakeholder feedback. We may need to revisit them as councils, proponents and the department adapt to the new approach.

Table 3. Proposed categories and benchmark timeframes

Stage	Category 1 (Basic)	Category 2 (Standard)	Category 3 (Complex)	Category 4 (Principal LEP)
Scoping	6 weeks	10 weeks	12 weeks	10 weeks
Lodgement	1 week	1 week	1 week	1 week
Exhibition	4 weeks	6 weeks	8 weeks	6 weeks
Post-exhibition	10 weeks	13 weeks	15 weeks	17 weeks
Assessment and finalisation	11 weeks	17 weeks	24 weeks	26 weeks
Total, excluding scoping*	26 weeks	37 weeks	48 weeks	50 weeks

*The total timeframe does not include the scoping stage, which occurs before lodgement.

What do you think?

Do you think benchmark timeframes create greater efficiency and will lead to time savings?

A new approach to rezonings

New roles

The new approach changes the roles of the various parties in the rezoning process. It acknowledges the proponent by giving them ownership of the application throughout the process. It gives councils greater responsibility and accountability and allows the department to focus on strategically significant proposals, such as state-led rezonings.

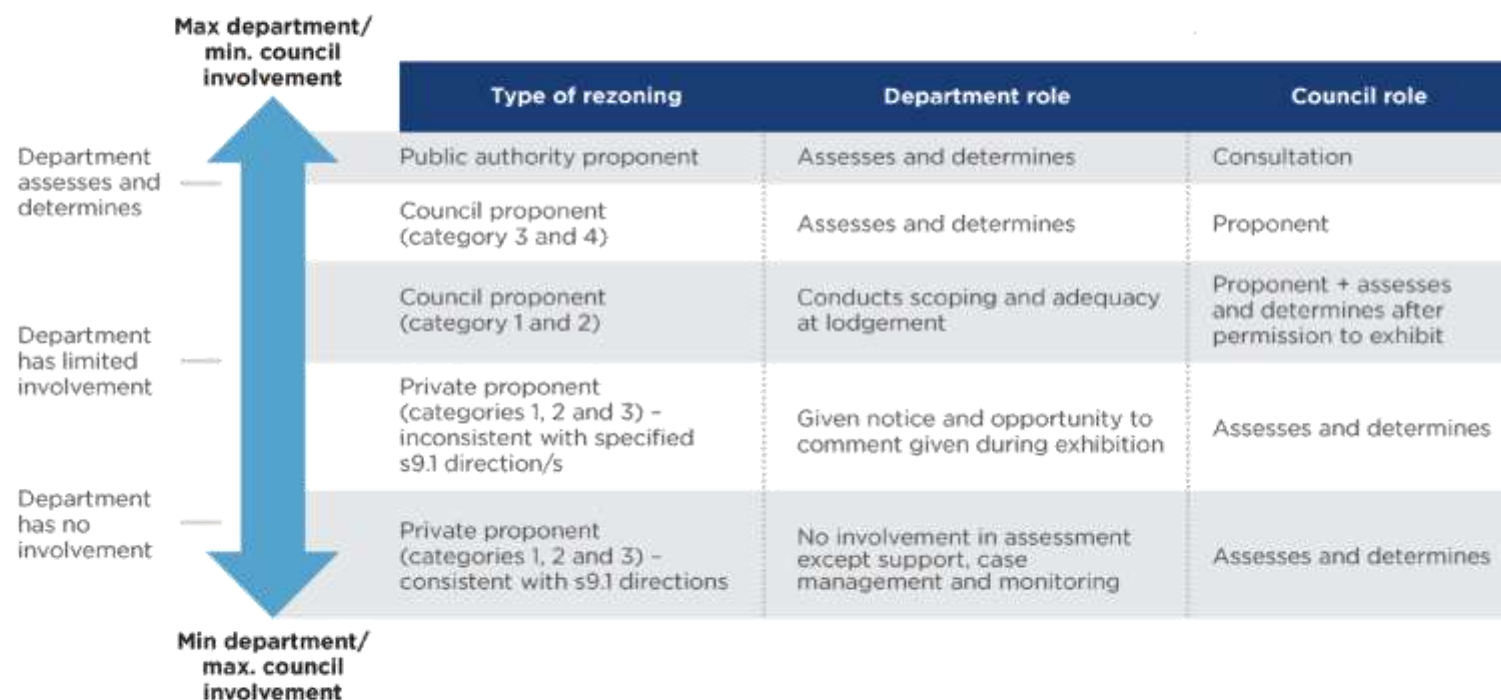


Figure 4. The roles of councils and the department under the new approach

Proponents

Councils – rather than private proponents – usually make changes to LEPs to ensure that LEPs give effect to strategic plans. Councils are sometimes limited by financial and resourcing constraints, both at the planning and infrastructure servicing stages, especially in regional areas. We expect there will always be a need for private proponents to initiate rezoning applications.

The current rezoning request process shifts responsibility to council to progress a planning proposal, with costs covered by the private proponent. This means that although the private proponent has the cost burden, they are not considered the applicant. They have little control over the processes, or any changes to the proposal.

Our proposed approach aims to recognise private proponents as applicants, as they are in the development application process. This will give the private proponent the right to:

- meet with the rezoning authority to discuss a potential request
- submit a rezoning application and have it assessed and determined after public exhibition
- appeal a decision made about a rezoning application because of a delay or dissatisfaction with a decision (see Part C: New appeals pathways).

Along with these rights, the private proponent will be responsible for all fees, meeting information requirements, consulting with state agencies, and reviewing and responding to any submissions received during consultation.

A private proponent will only be able to lodge a rezoning application if they are the owner of the land or have obtained the consent of the landowner to which the application relates.

Councils

Councils will continue to have a role in all rezoning applications, whether this is as a proponent, or in an assessment and determination or consultation role. The new approach aims to empower councils to make decisions about their local area without unnecessary departmental intervention.

This means that for private proponent rezoning applications, councils will have full control of the process, including giving permission to exhibit, which is currently given by a gateway determination. Councils will review any changes after exhibition and make the final decision.

To support this expanded role, councils will be better resourced through a new fee scheme that will compensate councils for the full cost of assessing a rezoning application, while also enabling them to invest in staff and better systems.

The department would still be available to offer support and assistance where needed, as well as education and training.

If a council is the proponent of a rezoning application, they would continue to be appointed as the rezoning authority after scoping and once the department has given permission to exhibit.

The type of council proponent rezoning applications that a council can determine will also be streamlined to include all category 1 and 2 applications (unless there is a conflict of interest).

What do you think?

What do you think about giving councils greater autonomy over rezoning decisions?

What additional support could we give councils to enable high-quality and efficient rezoning decisions?

What changes can be made to the department's role and processes to improve the assessment and determination of council-led rezonings?

Department of Planning, Industry and Environment

Departmental resources will be refocused to state-led, strategic and collaborative planning. This will allow us to focus on the plan-led system and on matters of state and regional significance. The type of rezoning applications no longer assessed or determined by the minister through the department will include:

- private proponent rezoning applications (notice to the department may be needed if the rezoning application is inconsistent with a s. 9.1 direction)
- council proponent rezoning applications where the council is the rezoning authority (for example, mapping alterations, listing local heritage items, strategically consistent spot rezonings).

The minister, through the department, will assess and determine:

- rezoning applications initiated by public authorities
- rezoning applications accompanying a state-significant development application
- council proponent rezoning applications
- rezoning applications that propose to amend a SEPP
- rezoning applications that are state or regionally significant.

The department will also continue to lead state-led rezonings, which will be generally carried out through a SEPP process and not through our proposed new approach.

Case management, monitoring and reporting

The department's Planning Delivery Unit was established in 2020 to progress priority development applications and planning proposals that are stuck in the system. Under the new approach, the unit's role will continue and the department's regional teams will continue to assist councils, state agencies and private proponents at either the scoping stage or to help resolve issues after lodgement.

We will require rezoning applications to be lodged and progressed through the NSW Planning Portal. The portal offers capabilities that will improve how the department monitors the rezoning process and the types of decisions that are being made. It provides a publicly available register of decisions, including the reasons for those decisions. This will help to maintain the integrity of the planning system through transparency, consistent decision-making and checks and balances, and it will act as an important anti-corruption measure.

What do you think?

Is there enough supervision of the rezoning process? What else could we do to minimise the risk of corruption and encourage good decision-making?

Do you think the new approach and the department's proposed new role strikes the right balance between what councils should determine and what the department should determine?

Inconsistency with section 9.1 ministerial directions

The new approach gives us the opportunity to review current section 9.1 ministerial directions (there are 41 at the time of publication) and consider approaches to streamline the assessment process. The current s. 9.1 directions cover the following categories:

- employment and resources

A new approach to rezonings

- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making
- metropolitan planning.

You can view them on the department's [policy directions for plan-making web page](#).

From 1 March 2022, the s. 9.1 directions will include a direction that states a planning authority must have regard to the Minister's Planning Principles and consider specific planning principles that are relevant to the preparation of a planning proposal.

Currently, the approval of the department's secretary may be required if a planning proposal is inconsistent with a s. 9.1 direction. In the new approach, we propose that:

- in some circumstances, a council can approve an inconsistency, rather than notifying the department and seeking approval from the secretary
- in other circumstances, the department will be given the opportunity to comment and/or approve an inconsistency.

What do you think?

Should councils be able to approve inconsistencies with certain s. 9.1 directions? If so, in what circumstances would this be appropriate?

Public authorities

State agencies

State agencies are the knowledge-holders on matters that can affect the viability and appropriateness of rezoning applications such as infrastructure provision, environmental impacts and bushfire safety.

The quality of the rezoning application and whether engagement has occurred with a particular agency before a rezoning application is lodged can affect the timeliness of a state agency's response.

Providing input into rezonings can also be resource-intensive for agencies. All of these things have the potential to delay assessment, especially if feedback comes late in the process and requires fundamental changes to a proposal.

To ensure state agencies share their knowledge without affecting timeframes and certainty, we're proposing changes to the agency referral process for rezoning applications as we continue to work to build a clearer role for state agencies in strategic planning.

- Councils, proponents and the department will have clear direction about the circumstances in which an agency referral is required at both the scoping and exhibition stages, tailored to individual agencies and circumstances.
- Proponents will have clear direction about the information they must give to agencies to allow study requirements to be issued and rezoning applications to be assessed.
- State agencies will have clarity about the appropriate level of assessment for rezoning applications.
- Requests for more information will be managed more closely.
- Strict timeframes for agency responses will be set, along with the ability for a rezoning authority to continue to progress and determine an application where an agency has not responded within the timeframe. If an agency objects, a rezoning authority could still approve the rezoning application, but will need to consider the objection when assessing it.

Many of these changes will be rolled out in the interim to realise immediate benefits and will be built on in the new approach.

Public authority proponents

There are also circumstances where public authorities that are holders of infrastructure and other assets are also proponents in the rezoning process. Under the new approach, if a rezoning application is initiated by a public authority, the application will be lodged with and determined by the department rather than a council.

What do you think?

Is it enough to have agencies involved in scoping and to give them the opportunity to make a submission during exhibition?

Do you think it would be beneficial to have a central body that co-ordinates agency involvement?

If a state agency has not responded in the required timeframe, are there any practical difficulties in continuing to assess and determine a rezoning application?

New steps

The proposed new process is outlined in the following diagram.

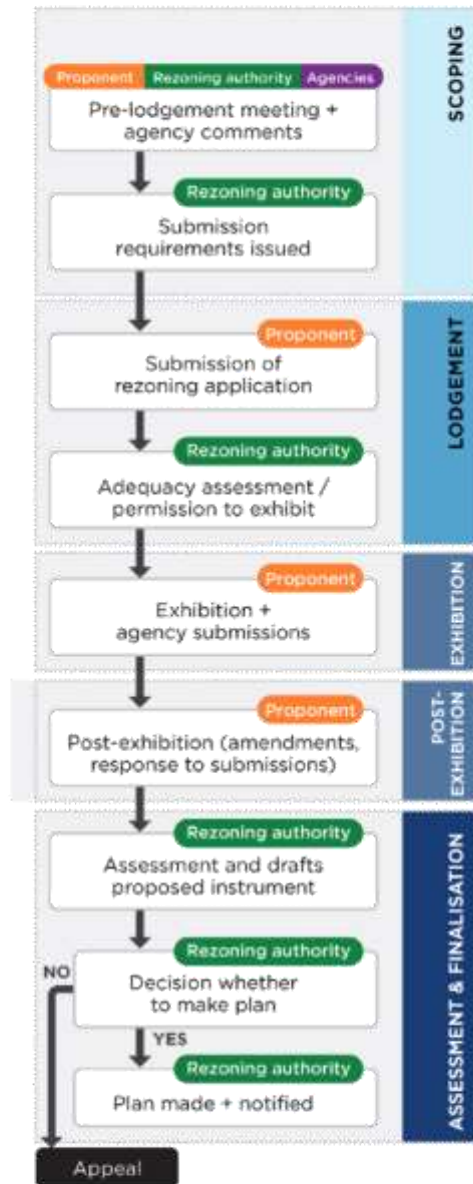


Figure 5. The proposed new process

Scoping

The new approach includes a mandatory pre-lodgement stage for the standard, complex and principal LEP rezoning applications (optional for the basic applications) called scoping. The scoping process is the same as that set out in the new LEP Guideline, except that under the new approach, we propose that scoping should be mandatory.

Scoping allows relevant parties to come together early in the process to discuss the project and provide feedback and direction before detailed work has progressed. Early feedback saves time and costs later in the process and leads to better quality and complete applications. It can also give a proponent an early indication of whether or not an application is likely to be supported before significant time and costs have been expended.

Even before the scoping process begins, a proponent will have a good understanding of the information that will be required to accompany a rezoning application through publicly available, standardised information requirements.

The scoping process will build on these standard requirements by giving all parties the opportunity to:

- discuss and give feedback on a rezoning application early in the process
- clarify the standard information required (determined through the categorisation process), and any additional site-specific information required for that specific rezoning application.

Proponents will not be able to lodge a rezoning application without progressing through the scoping process. Failure to provide the information required in the study requirements may lead to rejection of a rezoning application at lodgement or refusal at the end of the process.

Study requirements will be valid for 18 months. If a rezoning application is not submitted in this timeframe, the scoping process will need to start again with new study requirements issued.

This stage also helps proponents to understand the nuances of certain issues and the concerns communities may have regarding proposals, allowing for a better and more acceptable response.

Scoping report

This process will begin with a high-level scoping report, prepared by the proponent, that overviews the proposal, how it aligns with the strategic context, any planning or site-specific issues, and any required studies.

Scoping meeting

A scoping meeting is held between the proponent and the rezoning authority and other relevant parties (including state agencies) to discuss the scoping report and provide preliminary feedback. Early agency input is important to allow agencies to shape proposals early on and avoid problems later in the assessment process by allowing proponents to adapt or change their proposal to address agency issues at the outset.

Written feedback

The rezoning authority will provide written feedback that indicates:

- the rezoning application's consistency with strategic planning
- agency feedback
- any recommended changes to the rezoning proposal
- the nominated rezoning application category.

This written feedback will also set out the standard information that should accompany the rezoning application including:

A new approach to rezonings

- intended objectives and outcomes of the proposal
- broad justification/case for change – need, strategic merit and site-specific merit of the proposal
- high-level evaluation against strategic planning (including any relevant SEPPs or s. 9.1 directions)
- any study requirements such as technical reports that demonstrate strategic and site-specific merit (the rezoning authority should seek input from relevant state agencies when determining these requirements)
- whether a section 7.11 infrastructure contributions plan is needed (consistent with ministerial directions).

Although the rezoning authority will provide feedback on whether the rezoning proposal is likely to be consistent with strategic plans, it will not be able to prevent the proponent from lodging an application. Study requirements must still be issued, and a proponent may still lodge a rezoning application, and have it assessed and determined.

What do you think?

Should a council or the department be able to refuse to issue study requirements at the scoping stage if a rezoning application is clearly inconsistent with strategic plans? Or should all proponents have the opportunity to submit a fully formed proposal for exhibition and assessment?

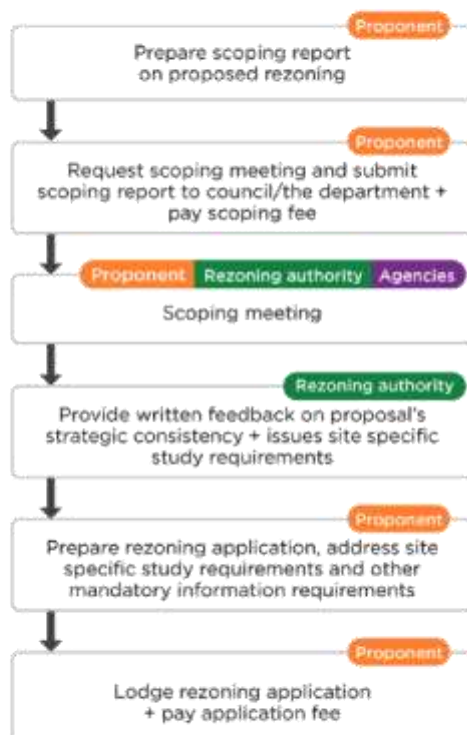


Figure 6. Framework for scoping

Consistent documentation requirements

Given that a rezoning application is not a development application, technical information should be proportionate to the category of the rezoning application.

The LEP Guideline contains information to support proponents, councils and state agencies throughout the process, including:

- a new scoping template to help proponents prepare a scoping proposal
- a technical document that outlines the information and technical studies that may be required to support a planning proposal, based on the category of planning proposal and the types of planning proposals where a proponent should engage with a particular authority or government agency before lodgement
- the content requirements, structure and form of the planning proposal and matters that the planning proposal must address, including relevant state and local policies, section 9.1 directions, planning circulars and SEPPs. For example, the guidance indicates that a complex greenfield or urban renewal rezoning is likely to require an urban design study, but a basic rezoning will not.

The guidance will ensure a consistent approach across NSW, while accounting for metropolitan and regional differences. We will adapt it and incorporate it into the new approach to rezoning applications.

Lodgement

Rezoning applications are lodged on the [NSW Planning Portal](#), the NSW Government's online planning system. The rezoning authority will check that the application is adequate and have 7 days to confirm that study requirements have been met.

This will align with the development application process, enabling greater opportunities to lodge concurrent rezoning applications and development applications.

Where requirements are met, this will trigger exhibition of the rezoning application, meaning the application will go live on the portal and the formal exhibition period begins. This is a significant change from the existing process. Currently, exhibition is determined as part of the gateway determination, when both the adequacy of information provided and the proposal's strategic alignment is assessed. A proposal might not proceed if it is found to be inadequate.

If study requirements have not been met, the rezoning application will be rejected and will need to be resubmitted.

Under the new approach, the only opportunity to refuse a rezoning application if it lacks strategic merit is after exhibition, in the final assessment stage. This means that the initial assessment effort will go into deciding if all required information has been provided, ensuring quicker adequacy checks and an opportunity for the public to scrutinise rezoning applications in an open and transparent way.

A new approach to rezonings

What do you think?

What sort of material could we supply to assure community members that exhibition does not mean the rezoning authority supports the application and may still reject it?

What do you think of removing the opportunity for a merit assessment before exhibition? Will it save time or money to move all assessment to the end of the process?

Should the public have the opportunity to comment on a rezoning application before it is assessed?

Exhibition

There will be a standard public exhibition period of between 14 and 42 days, depending on the category of rezoning application (as is currently the case, there could be circumstances where no exhibition is required).

A key shift in the new approach is to exhibit the rezoning application as soon as possible after lodgement, allowing early public scrutiny and saving time. Currently, there can be a considerable lag between issuing a gateway determination that allows exhibition and the start of the exhibition.

Additionally, we see an opportunity to improve the level of community engagement in strategic planning and the rezoning process by making it more accessible and simpler to understand. Effective community engagement is key to developing trust and transparency in the planning system.

The new approach will mean:

- The exhibition period automatically begins when the rezoning authority considers the rezoning application adequate and the rezoning application is visible on the NSW Planning Portal.
- Exhibition periods are determined according to the category of rezoning application (with an additional week included to allow the rezoning authority to send notification letters).
- Exhibition processes are automated as much as possible through the portal or, potentially, through integration with the Service NSW app.
- Proponents must provide a short, plain English summary of the proposal, its intent and justification and how it aligns with strategic plans, to be attached to notification letters.

What do you think?

What other opportunities are there to engage the community in strategic planning in a meaningful and accessible way?

Do you have any suggestions on how we could streamline or automate the exhibition process further?

Changes after exhibition

Following exhibition, a proponent must both summarise and respond to submissions received, including working with state agencies to resolve any objections. This will help the rezoning authority in its final assessment, while also giving the proponent the opportunity to respond to

A new approach to rezonings

issues raised. Those who provided submissions will know the proponent's response to their submissions.

As part of the response, the proponent will need to submit any changes or amendments to the rezoning application before final assessment.

Once the response to submissions and any amended rezoning application has been forwarded to the rezoning authority, assessment will begin. At this point, the assessment 'clock' will start. This is the time allowed for the rezoning authority to assess, finalise and determine a rezoning application before a proponent can:

- appeal (based on a decision that is deemed to be refused, a 'deemed refusal') and/or
- access a fee refund through a planning guarantee.

The deemed refusal and planning guarantee concepts are addressed in more detail in the next sections.

The finalisation timeframe is based on the category of rezoning application in Table 4.

Table 4. Assessment/finalisation timeframes

Category	1 (Basic)	2 (Standard)	3 (Complex)	4 (Principal LEP)
Assessment/finalisation timeframe	11 weeks	17 weeks	24 weeks	N/A (appeal only for private proponents)

What do you think?

Do you think the assessment clock should start sooner than final submission for assessment, or is the proposed approach streamlined enough to manage potential delays that may happen earlier?

Information requests

Ongoing requests for more information cause delays throughout the rezoning application process and create uncertainty for all parties to the process.

Requests for more information will be discouraged as the new approach is designed to:

- provide an opportunity for all necessary information to be identified upfront in the study requirements at scoping stage
- ensure that proponents resolve any outstanding agency and community concerns before submitting the final version of the rezoning application after exhibition.

Where requests for more information are unavoidable, or determining the application depends only on minor or unforeseen clarifications, requests for more information are allowed:

- from state agencies during exhibition/agency consultation, direct with the proponent
- within 25 days of being forwarded to the rezoning authority for assessment. Where this happens, the assessment clock (see Part D: Appeals) will be paused.

What do you think?

Do you think requests for more information should be allowed?

Assessment and finalisation

Following exhibition and any amendments, the rezoning authority will assess the rezoning application. The application may need to be exhibited again if changes made after the first exhibition are extensive – this will be determined by the rezoning authority.

If re-exhibition is not required and a rezoning application is supported, the rezoning authority will engage with the Parliamentary Counsel's Office to draft the instrument and mapping can be prepared.

As is currently the case, the rezoning authority can vary or defer any aspect of an amended LEP, if appropriate.

In assessing a rezoning application, all decision-makers need to address the same considerations when determining if a plan should be made. Decisions will also need to be published on the NSW Planning Portal and with the reasons for the decision clearly communicated.

Rather than different assessment processes at gateway determination and finalisation, we will standardise matters of consideration, as relevant to the final decision made by the rezoning authority. These standard matters will also inform advice given during scoping.

The kind of matters that could be considered include:

- whether the proposal has strategic merit
- provisions of any relevant SEPP or section 9.1 directions (including the Minister's Planning Principles)
- whether the proposal has site-specific merit
- any submissions made by the public or state agencies
- the public interest.

In considering strategic merit, the rezoning authority would consider whether the rezoning application:

- gives effect to the relevant strategic planning documents
- is consistent with the relevant local strategic planning statement or supporting strategy
- responds to a change in circumstances not yet recognised under the existing planning framework.

In considering site-specific merit, the rezoning authority would consider:

- the natural environment, built environment, and social and economic conditions
- existing, approved or likely future uses of land near the land subject to the application
- the services and infrastructure that are or will be available to meet demand arising from the rezoning application and any proposed financial arrangements for infrastructure provision.

What do you think?

Are there any other changes that we could make to streamline the assessment and finalisation process more? What roadblocks do you currently face at this stage of the process?

Do you think the public interest is a necessary consideration, or is it covered by the other proposed considerations?

Are there any additional matters that are relevant to determining whether a plan should be made?

A new approach to rezonings

Conflicts of interest

A conflict of interest may arise from certain voluntary planning agreements (VPA) or if council land is included in the rezoning application. This is separate to conflict of interest obligations on councillors under local government legislation.

Some of these potential conflicts of interest will be addressed in reforms to the NSW infrastructure contributions system, which funds the local and regional infrastructure needed to support new development. As part of the reforms, infrastructure contributions plans will be encouraged to be prepared alongside rezonings, minimising the need for VPAs.

A council with a conflict of interest should not assess and determine a proposal. Under the new approach, if a conflict of interest is unavoidable, the relevant local planning panel (or regional panel where no local panel exists) should determine the rezoning application.

What do you think?

Do you think a body other than the council (such as a panel) should determine rezoning applications where there is a VPA?

Where a council has a conflict of interest, should a rezoning application be determined by the local planning panel (as proposed), or should the department take full responsibility for the assessment and determination of the rezoning application?

New fee structure

Ad hoc rezonings led by private proponents may be used to achieve a different development outcome for a specific site than that permitted through the current controls. Typically, this relates to higher development yields, which can generate a better return on investment. This can mean private proponents stand to realise considerable economic benefits from a rezoning.

As this happens, we also need to ensure that any right to lodge a rezoning application comes with the responsibility to adequately compensate councils for the cost and time of assessing and determining applications. Councils should not be left short-changed or with stretched resources.

Currently, councils can charge fees for services under the *Local Government Act 1993* and rely on these fees for processing planning proposals. These fees are levied outside of the planning system.

Without relevant regulations, councils can structure and charge these fees as they wish, leading to varying fee payment structures between councils. We see fee variations for:

- pre-lodgement meetings
- categorising planning proposals (whether minor, major, complex or precinct-based)
- fees for public hearings or using external consultants to prepare additional supporting studies
- staging of payments proportionate to work done at any stage
- whether fee refunds are offered and the terms of the refund.

On average, Greater Sydney councils charge higher fees for pre-lodgement and the processing of planning proposals than regional councils. Some regional councils charge as little as \$9,000 and some Greater Sydney councils charge as much as \$150,000 for what they individually categorise as a major planning proposal.

Given the varying fees that councils charge and having heard that councils often have stretched resources, we have considered if it is appropriate to set a consistent structure for fees to proponents (other than council proponents). This could be done through 3 potential options, based on the following objectives:

- cost recovery for the rezoning authority, without creating a barrier to entry for rezoning applications that have strategic merit
- reasonableness for proponents (fees aligned with actual rezoning authority costs, including refund of fees not expended)
- transparency and predictability (proponents able to easily estimate fees with councils able to budget for quality staff and system improvements)
- ease of administration (administration minimised by limiting discretion, estimation or recording of assessment time by a rezoning authority).

Scoping fees

Any scoping fee structure would require a proponent to pay a fixed fee based on the application category (if known) when the scoping meeting is requested and a scoping report is submitted to the rezoning authority for preliminary feedback. Alternatively, the fee would be payable when the rezoning authority confirms the category.

The fee would cover the rezoning authority's costs for any activity during scoping, including consultation with state agencies and providing written feedback.

Assessment fees

Any assessment fee structure would require the proponent to pay a fee at lodgement. This would cover the costs of the merit assessment and any associated work to make the plan. We are considering 3 options.

Option 1: Fixed assessment fees

- Assessment fees are fixed by the rezoning authority, based on the category of rezoning application and divided into sub-categories based on the complexity of the rezoning application.
- Sub-categories are based on the extent of change to zoning and/or development standards by location and site area, along with other matters that complicate the assessment process (such as whether a proposal includes a VPA). For example, a standard rezoning application that proposes a zone change and a significant increase in height of building and floor space ratio could attract a higher fee than a standard rezoning application that only seeks an additional permitted use or a minor increase to the height of building and floor space ratio.
- No fees would be charged for any other associated costs such as consultant fees for peer reviews.
- If a rezoning application is withdrawn after lodgement, the proponent could be entitled to a set percentage refund of fees, depending on the stage the rezoning application reaches.
- This option provides certainty for proponents and lessens the administrative burden for rezoning authorities. However, it may not always result in actual costs being recovered.

Option 2: Variable assessment fees

- Assessment fees are based on the estimated costs a rezoning authority would incur on a case-by-case basis, depending on the category of rezoning application, staff time in scoping meetings and a forward estimate of staff hours required to assess the rezoning application.
- Associated costs would be charged to the proponent based on actual costs incurred.
- If a rezoning application is withdrawn post-lodgement, the proponent could be entitled to a refund of fees not yet expended by the rezoning authority.
- This option will achieve actual cost recovery but will be time-consuming to administer and uncertain for proponents.

Option 3: Fixed and variable assessment fees

- Assessment fees have a fixed and variable component. The fixed fee would be charged upfront, based on the category of rezoning application (similar to option 1). In addition, a variable fee is charged once the rezoning application is finalised, based on actual staff hours that exceed the costs covered by the fixed fee.
- To reduce the risk of non-payment of the variable fee component, proponents of complex rezoning applications could be required to provide a bank guarantee at lodgement.
- Associated costs will be charged to the proponent based on the actual costs incurred.
- This option will achieve actual cost recovery and be less time-consuming to administer and more certain for proponents than option 2 (although less so than option 1).

What do you think?

Do we need a consistent structure for rezoning authority fees for rezoning applications?

What cost components need to be incorporated into a fee structure to ensure councils can employ the right staff and apply the right systems to efficiently assess and determine applications?

Should the fee structure be limited to identifying for what, how and when rezoning authorities can charge fees, or should it extend to establishing a fee schedule?

What is your feedback about the 3 options presented above?

Should fee refunds be available if a proponent decides not to progress a rezoning application? If so, what refund terms should apply? What should not be refunded?

Planning guarantee

A planning guarantee was introduced into the UK planning system in 2013. It provides for a fee refund if councils take too long to assess the equivalent of a development application and works to encourage the timely progress of applications. Even where a fee refund is given, assessment and determination of the application continues.

We are looking at mechanisms for rezoning authorities to determine rezoning applications more efficiently while being transparent and giving proponents certainty. As part of this, we have considered the potential for a planning guarantee scheme in NSW.

We have considered 4 elements:

- **The assessment clock** – when the clock starts and stops during the rezoning application process.
- **Timing** – how long the clock should run before a proponent is entitled to a fee refund.
- **Refund amount** – the percentage or component of fees to be refunded.
- **Extension of time agreements (EoT)** – the ability for a rezoning authority and proponent to agree on a longer timeframe.

We developed a potential planning guarantee option by applying the UK model to our own system, with the 4 elements aligning with the new approach and potential fee structure options.

- **The assessment clock** starts once the proponent submits the response to submissions and any amended rezoning application to the rezoning authority for assessment and finalisation.
- **Timing** is based on the assessment/finalisation timeframes for that category of rezoning application (see Table 4 – Assessment/finalisation timeframes) and are the same as deemed refusal timeframes discussed under Part C: New appeals pathways.
- **Refund amount**, whether full or a portion and staged, so that the longer a rezoning authority takes, the higher the refund (this could mean, for example, an additional 10% refund for every week the rezoning authority does not meet the determination timeframe).
- **EoTs** would be required if it becomes clear that more time is genuinely required. EoT requests and agreements would be in writing and agreed to before the end of the determination timeframe. Only one EoT can be agreed to and the extension cannot be longer than the original finalisation time for that category of rezoning application.

The following diagram shows how the planning guarantee would fit within the rezoning application process.

A new approach to rezonings



Figure 7. Example of planning guarantee timeframes in rezoning process

What do you think?

Do we need a framework that enables proponents to request a fee refund if a rezoning authority takes too long to assess a rezoning application?

If so, what mitigation measures (for example, stop-the-clock provisions, or refusing applications to avoid giving fee refunds) would be necessary to prevent a rezoning authority from having to pay refunds for delays it can't control?

If not, what other measures could encourage authorities to process rezoning applications promptly?

A new approach to rezonings

Part C: New appeals pathways

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Introduction

As part of these overall reforms, we are considering a new appeals pathway for planning proposals.

There are currently 2 ways that decisions can be reviewed:

- **A rezoning review** – An appeal to the relevant planning panels where there is delay or a council has decided not to forward a planning proposal for gateway determination
- **A gateway review** – An appeal to the Independent Planning Commission where a council or proponent is dissatisfied with the gateway determination.

Both these reviews are non-statutory in that they are not specifically governed by the EP&A Act. They happen relatively early in the overall rezoning process, which means there is no opportunity for a review or appeal towards or at the end of the process – making the final decision beyond question.

There are benefits to some form of appeal mechanism at the end of the process:

- The opportunity to appeal where there is a delay encourages decision-makers to assess and determine applications promptly.
- An appeal on the final decision delivers a real and practical outcome if successful (for example, an LEP amendment), whereas reviews/appeals earlier in the process only move a proponent a step forward in the process.
- Written decisions about an appeal such as a judgment adds scrutiny to the decision-making process. This can guide and improve future decision-making as principles are developed, or highlight where there are gaps or inconsistencies in strategic planning documents.
- The appeal process can improve public visibility of decision-making and increases the accountability of decision-makers.

Our proposed approach will include a review opportunity for private proponents at the end of the process, if progress has been delayed or if the proponent is dissatisfied with the final decision. Proponents will have a certain timeframe within which to lodge an appeal, similar to the right to appeal a decision about the merit of a development application.

We do not propose allowing an appeal to public authorities such as councils or state-owned corporations. *Premier's Memorandum M1997-26 Litigation Involving Government Authorities*, although not strictly applying to all public authorities, discourages litigation between public authorities. Rather, other avenues, such as the Planning Delivery Unit, could resolve disputes between the department and other public authorities.

An appeal based on a delay would be available once set timeframes have passed, like a 'deemed refusal' of a development application. Under our proposed appeal pathway, the deemed refusal period would begin once a proponent lodges their final rezoning application or confirms that no changes are required and responds to submissions after exhibition.

The deemed refusal period would be based on the category of rezoning application as shown in Table 4 above.

This proposed pathway will allow the review body to look at the final decision and consider if a different decision ought to be made.

Options

We have already discussed a merit appeal right to the Land and Environment Court with stakeholders. While the Land and Environment Court is the primary institution in NSW for resolving environmental and planning disputes, stakeholder feedback prompted us to consider an appeal to the Independent Planning Commission as an alternative.

A Land and Environment Court merit appeal could operate similarly to development application merit appeals, with an opportunity for conciliation and a final hearing if an agreement cannot be reached. The court would have powers to make any decisions required to finalise the proceedings.

Appeals to the Independent Planning Commission will require us to develop a new process, allowing various parties to present their position and new procedures relating to amendments to rezoning applications or hearing from the public. This process could be similar to the determination process for state-significant development with appropriate changes to account for it being a review function and to allow the commission to make the final decision on a rezoning application.

Industry groups generally support an appeals pathway. They want greater certainty that proposals that are strategically aligned and address community needs can be approved in a mechanism that is apolitical.

However, there are concerns about the cost and complexity of Land and Environment Court proceedings, which may not be suited to strategic planning. Some industry stakeholders supported consideration of a non-judicial pathway, such as the Independent Planning Commission.

Councils are concerned that any proposed appeals pathway would add extra pressure and time. They feel the increase in costs, time and speculation would undermine strategic planning.

We have outlined advantages and disadvantages below.

Table 5. Land and Environment Court

Advantages	Disadvantages
<ul style="list-style-type: none"> Established processes and procedures relating to merit review could be adapted. Existing wide-reaching powers enable it to consider fresh evidence and exercise necessary powers. Opportunity for conciliation allows parties to discuss and resolve issues. Potential legal proceedings are a strong deterrent against delay or poor decision-making. 	<ul style="list-style-type: none"> Can be costly and time consuming – legal representation is not mandatory but is common. No historical dealings with the merit of strategic planning decisions and may not currently have the expertise. Adversarial process may not be suited to rezonings. The court may have an issue intervening in the making of an LEP, being a form of delegated legislation (which is the role of the Minister for Planning and Public Spaces).

A new approach to rezonings

Table 6. Independent Planning Commission

Advantages	Disadvantages
<ul style="list-style-type: none"> • Likely to be quicker and cheaper. • More flexible procedure and less adversarial, meaning we can tailor a new process to strategic planning decisions. • Appropriately independent from government to review government decisions. 	<ul style="list-style-type: none"> • Would be a significant shift in operations, requiring resourcing. • May not have the expertise to deal with strategic planning decisions. • No opportunity for conciliation – to maintain an efficient process, may need to limit opportunities for changes to proposals and fresh information on review.

What do you think?

Do you think public authorities (including councils) should have access to an appeal?

Which of these options – the Land and Environment Court or the Independent Planning Commission (or other non-judicial body) – do you believe would be most appropriate?

A new approach to rezonings

Part D: Implementation

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Implementing the new approach

Our focus in this discussion paper is to seek feedback on the concepts or principles of the new approach, rather than the means of carrying it out. Once it is clear which of the proposed elements will have the greatest benefit, we will use what we've heard to determine how we will put the new approach into action.

Applying the new approach could involve both legislative and non-legislative changes.

We could implement the proposed new approach using existing legislative provisions, along with other existing mechanisms such as:

- ministerial directions to make assessment considerations more certain
- delegation to empower decision-makers
- departmental secretary's requirements to make application requirements clear
- amendments to the Standard Instrument to standardise common amendments
- new regulations to provide more certainty in the agency engagement process.

This would be supported with other policy and guidance material.

By using the existing statutory framework, the reforms are, necessarily, more limited in scope.

A legislative approach would involve amending the EP&A Act in addition to the mechanisms described above. This allows greater opportunity and flexibility in any reform. Importantly, legislative change would be needed to allow a rezoning application to be appealed in the Land and Environment Court.

The implementation of the new approach will be supported with policy guidance and education for industry and councils to ensure a smooth transition and minimise disruption and uncertainty. There will also be opportunity for councils to adjust their processes and resourcing.

NSW Planning Portal improvements

We will need to increase the capability and use of the NSW Planning Portal for triggering referrals, standardising requirements and ensuring accountability and transparency.

Much of this work is underway, including the ability to lodge a planning proposal online, which began in the middle of 2021.

The department's ePlanning team will continue to increase the capabilities of the portal and adjust the system to account for changes to the process.



Our Reference: XXXXXXX DLA:DLA
 Your Reference: Rezoning Reform
 Contact Name: Donna Ausling

Ms Paulina Wythes
 Director, Planning Legislative Reform
 Department of Planning and Environment
 Locked Bag 5022 Parramatta NSW 2124



VIA EMAIL: planninglegislativereform@planning.nsw.gov.au

Wednesday, 23 March 2022

Re: Discussion Paper: A New Approach to Rezoning – Council Submission

Dear Sir/Madam

Thank you for the opportunity to provide feedback in relation to the discussion paper – *A New Approach to Rezoning*. Council provides the following comments to assist in the Department's decision-making processes.

Please be advised that this submission is further to the 'Officer level' submission forwarded to the Department. It represents Council-endorsed correspondence, as an approved late submission, following Council's Ordinary Council Meeting held on 22 March 2022.

1. Introduction of the Pre-Lodgement Scoping Stage

Provision for pre-lodgement requirements is considered essential as part of any scoping phase.

2. Removal of the gateway determination stage

The current gateway process has proved generally effective to mitigate undesirable planning proposals being pursued. Its original intent to provide greater certainty as a 'checkpoint' to prevent significant investment in proposals that had limited strategic merit would be circumvented by the reforms, once again, potentially creating project risk and uncertainty.

Transitional arrangements from the current gateway processes to the new framework will require careful consideration and management.

3. Public exhibition of the rezoning application to occur shortly after lodgement

The requirement for a one (1) week turnaround for lodgement, as detailed on page 13 of the Discussion Paper, is considered unrealistic and inappropriate.


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4. Categorisation of proposals and related timeframes

Clear guidelines on categorisation of Rezoning Applications would need to be provided by the Department to provide appropriate clarity and manage community and developer expectations. The proposed category of de-listing of heritage items as basic or otherwise, is currently considered unclear.

5. Introduction of a merit appeal right for proponents

The proposed appeal processes are not supported. It is considered that such amendments would create an increased financial and resourcing burden for councils and lead to community and proponent uncertainty, in addition to poorer local planning outcomes.

Access to the Parliamentary Counsel's Office (PC) can be challenging, particularly given current backlogs. It is apparent that additional resourcing is required to assist PC in this regard. Planning Teams have historically faced some 'roadblocks' with respect of conveying legislative intent to PC from rezonings or LEP amendments which can contribute to uncertainty. Should the appeals processes be introduced, this is likely to become even more complex.

6. Introduction of a "planning guarantee" for application fees

It is not considered appropriate to incorporate fee refund arrangements as part of a regulatory reform program. This particular element is strongly opposed and will create considerable uncertainty for Councils, particularly in respect to financial management processes. Additionally, many delays are not a result of Council inaction, rather, are resultant from process or procedural-allied impediments at the proponents-end, or with respect to lagging Agency response times. It is not considered appropriate for Councils to be borne with such a liability and prospective penalty for matters outside of their sphere of influence and/or control.

General

The following additional trends and commentary is provided for the Department's consideration in the context of the draft Plan:

- a) The proposed amendments will potentially compromise the objectives and overall intent of the impending Design and Place State Environmental Planning Policy (SEPP).
- b) Fees should not be mandated and should remain at the discretion of each Council. Whilst the financial support detailed on page 19 of the Discussion Paper would be welcomed, a similar 'promise' was made with respect to ongoing access to Planning Reform Funding (PRF). Such funding has now been unavailable to local government for many years. The longevity of such funding arrangements is therefore considered highly questionable.
- c) It is considered that changes and exhibition during the local government caretaker period and Christmas are largely disingenuous and not consistent with

Page 2

the Minister's planning principles. The system appears to be actively moving away from genuine consultation.

- d) The movement of merit assessments to the end of the process will create greater uncertainty for the proponent, Council and the community. This approach is considered inappropriate and will create pressure on Council's Planning Team to approve undesirable proposals. The approach is also likely to occasion associated probity and corruption risks that do not presently largely exist within the current framework. It is considered that the reforms will encourage speculative applications, which is contrary to the overall intent of the strategic planning framework.
- e) Council is unopposed to benchmarking, as this will guide decision-making processes and resourcing. This should, however, only be for guidance purposes and should not be legislated due to the complex nature of such planning matters and ongoing challenges for regional/rural Councils to attract suitably skilled and qualified planning practitioners.

Council trusts that the above advice provides the necessary clarification. Should you require any additional information or assistance in this regard you are invited to contact Council's Manager of Strategic Planning at council@narrabri.nsw.gov.au or by telephoning (02) 6799 6866.

Yours faithfully,

Andrew Brown

Director Planning, Strategy & People

11.5 NOTICE OF MOTION - NARRABRI LAWN CEMETERY & OLD NARRABRI CEMETERY**Attachments: Nil**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

- (a) That the General Manager provide a report to Council on:**
- (b) the cost of repairing or resurfacing the internal roads and the signposting of where plots are located at the Narrabri Lawn Cemetery to match the Cemetery Register and the source of funds to undertake the works in the 2022-2023 Capital Works Program;**
- (c) the cost of and what level of service is provided in mowing the rows and between the rows, maintaining signage, picking up rubbish etc., at the Old Narrabri Cemetery to improve its appearance and protect the asset;**
- (d) the options of the engagement of Corrective Services and/of Community Service Order people or grant funded employment programs or other options to assist in the maintenance of the Old Narrabri Cemetery?**

RATIONALE

The Narrabri Lawn Cemetery is an important asset of Council that is in dire need of maintenance and upgrading of its internal roads system and having signposting installed to identify where plots are in accordance with the Council's Cemetery Register so people enquiring where the plots are can find them.

The Old Narrabri Cemetery also very important has been maintained by members of the community and Council staff/contractors over the years, however the volunteers are getting older and the work they do in tidying up the cemetery sometimes gets beyond them. The maintenance done needs to ensure it meets an appropriate level of service that satisfies the community within the constraints of funds availability and expectations.

In some Local Government Areas arrangements are made with Corrective Services, Justice Department etc., to assist with the maintenance of their cemeteries via Community Service Orders or grant programs etc., to assist the volunteers and Council maintain the cemetery.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

The 2020 – 2021 capital works budget included \$100,000 for the renewal or replacement of the concrete kerb around sections 1,2,3, and 4. This work was to improve drainage of surface water which is damaging the road surface at each corner. This work was to be included in Council's kerb and gutter contract to reduce the mobilisation costs of the contractor. On completion of this work Council may wish to consider additional funds of approximately \$100,000 to resurface the roads connected to this kerb replacement to complete the works.

The sign posting of cemetery rows is not recommended as a location device for the Lawn cemetery. Posts would impact the ability of vegetation maintenance and would not improve the aesthetics of the area, as the appearance of a lawn cemetery is to have a low-profile open view.

Management recommends the best way of identifying each row would be to paint on the letters and number of the row to the kerb allowing for easier location of cemetery plots and would in turn be able to be achieved in the immediate term with a cost of approximately \$1,000.

In this current financial year, Council has spent \$24,602 on vegetation control out of the total budget of \$35,000. The level of service for maintenance is completed fortnightly. However, there have been restrictions within this service due to the past six months being the wettest summer season for over a decade. This has reduced access to the cemetery grounds.

In some cases with heavier falls, it may take 3 to 4 weeks to gain access to the whole cemetery. This will have the appearance of certain sections being mown and others looking neglected. Management are not aware of any volunteer system currently in place at the Narrabri Old Cemetery. Council does allow for family members to maintain around family plots as this level of service is up to the individuals.

Unfortunately, this does come with a few pit falls such as individuals increasing vegetation maintenance in the immediate areas and other who choose to beautify their plots with planting of flowers and other shrubs which impacts the ability to chemically control vegetation between grave sites. This additional individual preference of maintenance will always be above any current service level Council can undertake.

In the past four years, Council was approached to allow Juvenile offenders to do maintenance works in cemeteries across the Shire. Council was supportive of the proposal but changes in the correctional system resulted in this plan not being initialised as the distance to other correctional facilities would be a deterrent to achieve this type of volunteer work. This has resulted in no further enquires in this area. Opportunities for funded programs, such as work for the dole scheme, have been discussed with similar results and with current recruitment issue seen by the entire shire in finding work placements this program at present would not appear achievable.

Furthermore, during the same time Council has increased the service level to the Narrabri Old Cemetery and tripled the budget from \$12,000 to \$45,000. Unfortunately there is always the comparison between the Narrabri Old Cemetery and Narrabri Lawn Cemetery which offer completely different services and interment costs. Narrabri Old Cemetery has the highest level of service out of all the General cemeteries in the Local Government Area. With recent upgrades to the access roads this has allowed family members to access their plots all year round. In the past vehicles could not divert from the main road for weeks at a time when there has been heavy rainfall.

11.6 NOTICE OF MOTION - RENEWABLE ENERGY ACTION PLAN (REAP)**Attachments: Nil**

I, Councillor Rohan Boehm, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION**That:**

"Narrabri Shire Council calls for tenders from suitably qualified consultants to undertake a Renewable Energy Action Plan (REAP), where:

- 1. The Shire commits to net-zero CO2 emissions by 2035,**
- 2. The Shire's detailed electricity usage is modelled based on time of use, prices and charges paid in \$/kWh and demand charges, location and type of metering – over a 12 month period,**
- 3. The Shire's use of petrol and diesel fuels is collated in terms of plant type, prices paid per litre, time of use and volume – over a 12 month period,**
- 4. In order to meet the goal, new business opportunities and skills are prioritized as being delivered by Shire-based business, and people, to achieve these goals,**
- 5. The REAP identifies skills and systems that are required to meet these goals,**
- 6. To reach net-zero emissions by 2035, the report would identify a business case for Council to invest, or jointly invest in sources of alternative energy that meet Council energy needs**
- 7. A detailed report is delivered to a public forum(s) commissioned and led by Council, later becoming an online resource on the Council website to assist the Shire and communities in the transition,**
- 8. Council commits to re-directing net annual savings made in energy costs by transitioning away from fossil fuel energy to renewable energy**
 - a. A model is developed that shows savings in net energy costs be redirected to a Community Energy Benefit Fund (CEBF)**
 - b. A governance model is proposed for CEBF**
 - c. Not-for-profit community organisations of the Shire are supported the Shire**
 - d. Education and skills development assists future workforce development for the Shire**

RATIONALE

Theme: Society, Environment, Economy,

Values: Leadership

Budget implications:

A: Study approx. \$35,000 – 2022-23 budget period – plus staff time to assist with desktop studies and data capture

B: Savings: Annual savings of \$600,000 (after five years) consisting in reduced electricity costs, diesel and petrol used in operations

C: Electric Vehicles (EVs), Hydrogen powered plant and equipment reduced operating costs and whole-of-life costs

Moved by Rohan Boehm 14 March 2022



Seconded by

In support of this motion:

This motion supports the NSW Government policies on “Zero-by 2050”
<https://www.environment.nsw.gov.au/topics/climate-change/net-zero-plan>

and the “NSW Hydrogen strategy”, which are sub-sets of international treaties signed by the Australian Government following the Paris Accord of 2015,

(<https://www.un.org/en/climatechange/paris-agreement>, and more recently at the COP -
<https://www.minister.industry.gov.au/ministers/taylor/media-releases/australias-plan-reach-our-net-zero-target-2050>).

EV policy: NSW Net Zero Plan: 2020-2030, the NSW Government will offer incentives to support medium to large sized fleets, such as local councils, car leasing companies and car share companies, to purchase battery or hydrogen fuel cell EVs. The incentives will be offered through a reverse auction process, ensuring the Government maximises value for money and uptake of EVs in New South Wales. Further it is noted, the NSW Government will invest \$171 million over the next four years to ensure widespread, world-class EV charging coverage so current and future EV drivers can be confident they can drive their vehicles whenever and wherever they need to. Additionally in respect to attracting tourism investment in the Shire, the NSW Government will roll out ‘EV Tourist Drives’ across New South Wales to ensure regional communities share in the benefits of EVs. The NSW Government is co-investing in rolling out ultra-fast chargers at 100 km intervals across all major highways in New South Wales to make it easier for city-based and regional EV drivers to travel in regional areas.

The NSW Government will also provide grants to regional businesses to install charging points for their guests to attract EV drivers to explore our State, a further incentive for Narrabri Shire Council to proactively seek to embrace the rapidly changing preference for the community to adopt EVs.

Narrabri Shire Council has the opportunity in 2022 to lead the Shire and its people into the future economy – one that is well and truly underway already noting the national electricity grid is met today by 35% of electricity being sourced from solar and wind, and these variable sources becoming more and more supported by large scale and domestic battery storage systems.

Narrabri Shire residents, business and local government exports nearly \$300m annually to pay for its electricity - mostly externally sourced. A Renewable Energy Action Plan would provide route and rationale of the Shire progressively supplementing its electricity with appropriate energy sources that are sourced, generated, stored and consumed in the Shire.

This is the time for leadership by the Shire 2022. We can have a REAP that has the community directly engaged in the transformation of its energy source, creating significant new wealth, new jobs, new skills and opportunities that are based on low-cost, abundant energy.

It is reasonable to state that electricity consumption by the Shire is over \$600,000 annually – this can be reduced very significantly beginning 2022-23.

A REAP report would show the pathway and the investments needed to achieve savings that would go a long way towards supporting all community organisations materially for the long term, and the report would also identify where the community can benefit by intersecting in this transformation.

The Shire and its contractors consume large volumes of diesel fuel annually in delivering road, waste management and general services. The time is rapidly approaching when Hydrogen powered large equipment replaces diesel fuels, so the time to plan for that is now.

Energy security in uncertain times is also a vital consideration when fossil fuels disruptions, thus the operations of the Shire would be protected fully in the event of power outages, disruptions to fuel supplies and the availability of suitable plant.

The future economy based on renewable energy resources for Council allows savings generated on Council operations be committed to a Community Energy Benefit Fund that is dedicated to assisting appropriate not-for-profit community organisations, and education initiatives for skills development for future workforces. These funds may be pooled with other similar initiatives and grants to permanently fund community development.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

This motion proposes expenditure of funds that are not already provided for in the Council's current adopted operational plan, and does not identify the source of funding for the proposed expenditure (clause 10.9 of the *Code of Meeting Practice*). Pursuant to rule 10.9, Council **must** defer consideration of the motion until the General Manager has prepared a report on the availability of funds for implementing the motion, if adopted.

Management recommends that the matter be referred to the General Manager for inclusion in the budget workshops scheduled to occur in the April/May period, following which a report can be prepared in accordance with clause 10.9. The Motion could be considered after that.

At this stage, management does not make comment on the substance of the motion.

12 OUR ECONOMY



THEME 3: OUR ECONOMY

STRATEGIC DIRECTION 3: PROGRESSIVE AND DIVERSE ECONOMY

By 2027, we will have developed a strong, diverse economy that attracts, retains and inspires business, industry and tourism growth.

COMMUNITY ENGAGEMENT

Through extensive community engagement, the Narrabri Shire community identified several economic priority areas to be actioned over the 2017 - 2018 financial year.

COMMUNITY SERVICES

Current services provided within the Narrabri Shire community include:

- Economic development
- Planning and development
- Entertainment and conferences
- Local and regional tourism and events
- Saleyards
- Airport

COMMUNITY OUTCOMES

In partnership with the community, government and non-government agencies, the Operational Plan will work towards achieving the following economic strategic outcomes:

- Increased community events, conferences and entertainment
- Increased employment through industry innovation, investment and value adding
- Established freight hub for the Norther Inland Region
- Increased housing availability and affordability
- Broadened economic base

12.1 RECORD ARCHIVING OF COUNCIL EMAIL

Responsible Officer: Lindsay Mason, Director Corporate and Community Services

Author: Lindsay Mason, Director Corporate and Community Services

Attachments:

1. Code of Conduct Policy 2020 [↓](#)
2. Records Management Policy [↓](#)
3. Internet, Email and Computer Use Operational Protocol [↓](#)

DELIVERY PROGRAM ALIGNMENT**4 Leadership**

Objective 4.4 Our strategic goals will be achieved through transparent and accountable planning and reporting

Strategy 4.4.2 Ensure effective and sound local governance practice

EXECUTIVE SUMMARY

Council's email system is recorded on a dedicated on-premise server, and forms part of the record management system required to be kept under the requirements of the *State Records Act 1998*. All incoming and outgoing emails form part of these records and are recorded automatically. These records are backed up each evening.

The definition of a record under the *State Records Act 1998* means '*any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by other means.*'

Council record keeping is also guided by the Council's Code of Conduct.

RECOMMENDATION

1. That Council note the information regarding Council record keeping surrounding emails and the legal requirements associated with the State Records Act 1998.
2. That Council note the requirements under its Code of Conduct for record keeping.

BACKGROUND

At the extraordinary meeting of Council held on 15 February 2022 the following motion was passed by Council:

MINUTE 014/2022

Moved: Cr Rohan Boehm Seconded: Cr John Clements

THAT

(i) That the General Manager provide a report to the 22nd March 2022 Ordinary meeting detailing the following: the details of how emails and other Council documents are auto-archived for the purposes of complying with any legal requirements and details of all relevant legislation and other responsibilities that are relevant to this. Also, that offsite backup and protection from tampering be detailed in the report.

(ii) That the General Manager present a report outlining a new or existing Policy for approval or modification on proposed protocols that would need to be observed to allow access to auto-archived material. This should include penalties for access outside of the finalised policy.

(iii) That the General Manager provide a report to each Ordinary Meeting of Council detailing the number of accesses to auto-archived material that have been undertaken, by whom and the reason for access, ensuring process that excludes any detail in reports that could identify an individual.

CURRENT SITUATION

The *State Records Act 1998* is to set out the records management responsibilities of public offices.

The Act requires CEOs of public offices to ensure compliance with the Act and public offices to:

- make and keep full and accurate records.
- institute a records management program in accordance with standards and codes of best practice for records management.
- ensure the safe custody and proper preservation of State records.
- maintain accessibility to digital and other technology dependent records, and
- make arrangements with NSW State Archives and Records for monitoring and reporting on the implementation of the public office's records management program.

Council's Code of Conduct dictates the requirements for Council Officers. The Code states the following:

Part 8.21 You must comply with the requirements of the State Records Act 1998 and the council's record management policy.

Part 8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the State Records Act 1998 and the Council's approved records management policies and practices.

Part 8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

Part 8.24 You must not destroy, alter or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the State Records Act 1998.

Council Staff are provided with copies of the Code of Conduct and the Internet, Email and Computer Use Protocol upon offer of employment. These documents are required to be read, prior to commencement of employment, with staff acknowledging that they have read and understood the documents. This is carried out electronically and the acceptance of having read these documents, is a requirement prior to proceeding into Council's employ. The Internet, Email and Computer Use

Protocol (internal staff policy) advises staff of their obligations and is attached to this report. Failure to comply with the protocol, may lead to disciplinary procedures.

Under the protocol, staff are made aware of what circumstances surveillance of records may be carried out. This can be in relation to employment matters, provision of records to a law enforcement agency in connection to an offence, in connection with legal proceedings or disclosure reasonably believed to be necessary to avert an imminent threat of serious violence or other injury to any person or damage to property. The disclosure of records can occur in circumstances of assault, suspected assault, suspected harassment, stalking or bullying, theft or suspected theft of Council's property (or that of a related corporation of the Council) or damage to Council's equipment or facilities (or that of a related corporation of the Council).

It should be noted, to satisfy ongoing compliance requirements the deleting emails from inboxes, sent items or clearing deleted items in Microsoft Outlook, does not remove the items from the auto archived email records system.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY AND POLICY IMPLICATIONS

- *State Records Act 1998.*
- *Local Government Act 1993.*
- *Code of Conduct Policy 2020.*
- *Record Management Policy.*
- *Internet, Email and Computer Use Operational Protocol.*

CONSULTATION

External Consultation

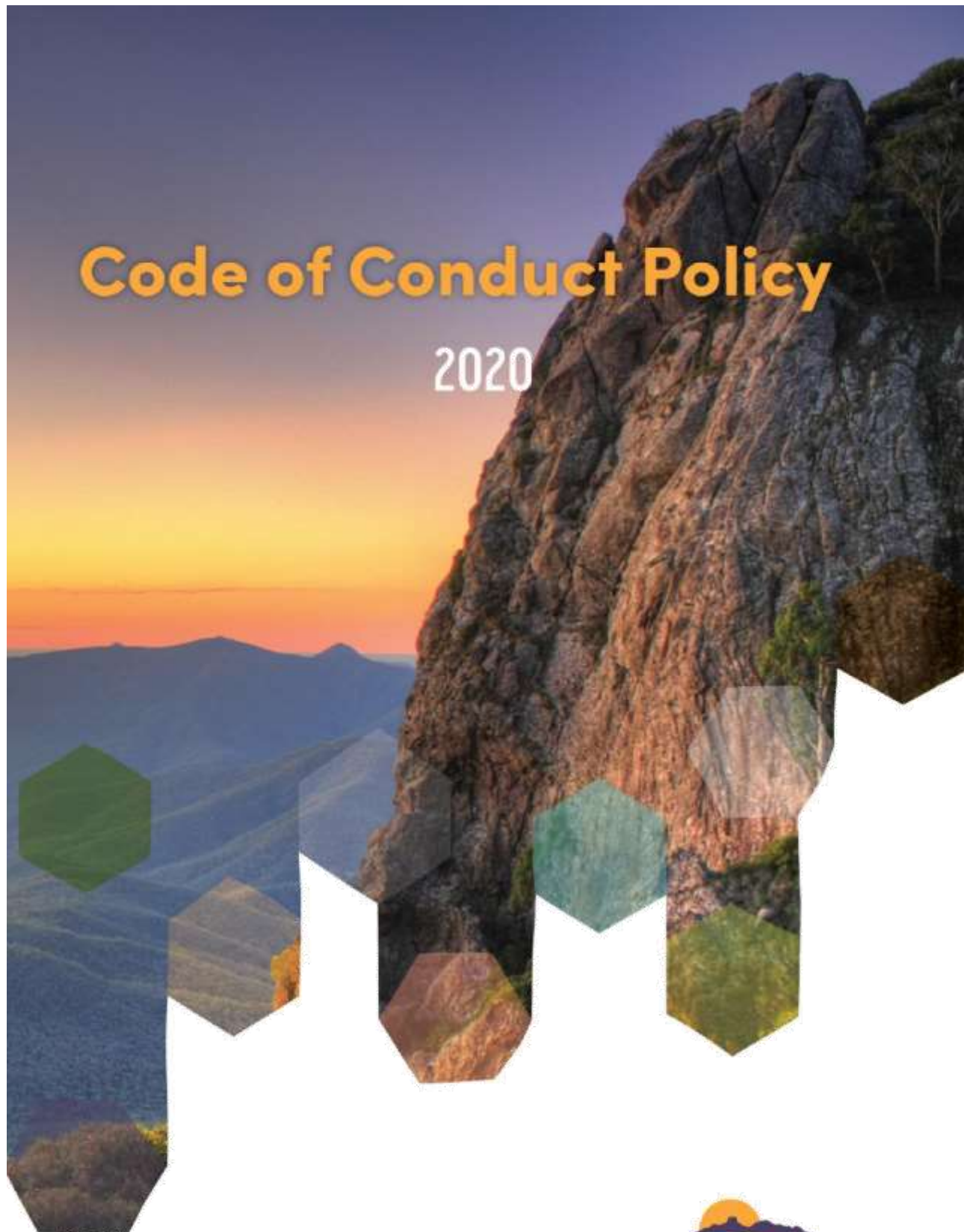
- Lindsay Taylor Lawyers.

Internal Consultation

- Director Planning Strategy and People.

Code of Conduct Policy

2020



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Responsible Department: Corporate and Community Services
Responsible Section: Governance
Responsible Officer: Director Corporate and Community Services

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PART 1 INTRODUCTION

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

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

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

This Code must be published and maintained as a current document and must be noted in accordance with Narrabri Shire Council's Complaints Handling Policy and Procedure.

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

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

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

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

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

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

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

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



PART 2 DEFINITIONS

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>

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local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

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

Fairness and equity

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

Harassment and discrimination

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

Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
 - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments

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- c) spreading malicious rumours
- d) teasing, practical jokes or 'initiation ceremonies'
- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a) performance management processes
- b) disciplinary action for misconduct
- c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d) directing a worker to perform duties in keeping with their job
- e) maintaining reasonable workplace goals and standards
- f) legitimately exercising a regulatory function
- g) legitimately implementing a council policy or administrative processes.

Work health and safety

3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

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

Obligations in relation to meetings

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

PART 4 PECUNIARY INTERESTS

What is a pecuniary interest?

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

What interests do not have to be disclosed?

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

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

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

What disclosures must be made by a designated person?

- 4.8 Designated persons include:
- (a) the general manager
 - (b) other senior staff of the council for the purposes of section 332 of the LGA
 - (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise,

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could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest

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

4.9 A designated person:

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

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

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

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

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

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

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

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

What disclosures must be made by council advisers?

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

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

What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

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

Disclosure of interests in written returns

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

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
- (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
 - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

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- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
 - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - (b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

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

Managing non-pecuniary conflicts of interest

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

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

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

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

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

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

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

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

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

Political donations

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

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

Loss of quorum as a result of compliance with this Part

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

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

Other business or employment

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

Personal dealings with council

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

PART 6 PERSONAL BENEFIT

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

Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

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

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
 - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
 - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer-supplier relationship with the competition organiser
 - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager,

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

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

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

Gifts and benefits of token value

- 6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
 - b) gifts of alcohol that do not exceed a value of \$50
 - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
 - d) prizes or awards that do not exceed \$50 in value.

Gifts and benefits of more than token value

- 6.9 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.
- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

"Cash-like gifts"

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

Improper and undue influence

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

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

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

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

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

Obligations of staff

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

Inappropriate interactions

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

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

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

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

Councillors and administrators to properly examine and consider information

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

Refusal of access to information

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

Use of certain council information

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

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

Use and security of confidential information

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

Personal information

- 8.12 When dealing with personal information you must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*
 - b) the *Health Records and Information Privacy Act 2002*
 - c) the Information Protection Principles and Health Privacy Principles
 - d) the council's privacy management plan
 - e) the Privacy Code of Practice for Local Government

Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

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

Internet access

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

Council record keeping

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

Councillor access to council buildings

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

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

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

Detrimental action

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

Compliance with requirements under the Procedures

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

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

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

Complaints alleging a breach of this Part

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

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

Part 1: Preliminary

Definitions

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

address means:

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

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

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

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

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

interest means:

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

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

occupation includes trade, profession and vocation.

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

property includes money.

return date means:

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

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

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

Part 2: Pecuniary interests to be disclosed in returns

Real property

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

Gifts

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

Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
 - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:

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- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
- b) was made by a relative of the traveller, or
- c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
- d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
- e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
- f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
- g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.

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

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and
 - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

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

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

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

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

Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
 - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
 - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
 - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and
 - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and

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- (ii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
- 28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
- 29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
- 30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

Debts

- 31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
 - a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
- 32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21, whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
- 33. A liability to pay a debt need not be disclosed by a person in a return if:
 - a) The amount to be paid did not exceed \$500 on the return date or in the period since 30 June of previous financial year, as the case may be, unless:
 - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
 - b) the person was liable to pay the debt to a relative, or
 - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
 - d) in the case of a debt arising from the supply of goods or services:
 - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
 - e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

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Discretionary disclosures

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

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

'Disclosures by councillors and designated persons' return

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

Important information

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

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

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

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access)*

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Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

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

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

as at *[return date]*

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

[councillor's or designated person's signature]

[date]

A. Real Property

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

B. Sources of income

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

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June
Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee

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

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

C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor

D. Contributions to travel

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

E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if any)	Nature of interest (if any)	Description of position (if any)	Description of principal objects

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interest or held a position at the return date/at any time since 30 June	(if any) of corporation (except in case of listed company)
--	---

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

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

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

J. Discretionary disclosures

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

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

Important information

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

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

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

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

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

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

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

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

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

to be held on the day of 20 .

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

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

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

Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	
--	--

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

Councillor's signature

Date

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

Procedures for the Administration of the Narrabri Shire Council Code of Conduct Policy

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PART 1 INTRODUCTION

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

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

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

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

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

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

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

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

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PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of

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

PART 3 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
 - c) knowledge and experience of one or more of the following:
 - i) investigations
 - ii) law
 - iii) public administration
 - iv) public sector ethics
 - v) alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or
 - d) an employee of a council, or
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.

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- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

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

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of

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a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.

- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
 - a) coordinate the management of complaints made under the council's code of conduct
 - b) liaise with and provide administrative support to a conduct reviewer
 - c) liaise with the Office and
 - d) arrange the annual reporting of code of conduct complaints statistics.

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PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a code of conduct complaint?

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

When must a code of conduct complaint be made?

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

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

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.

- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

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

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

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

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

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

Consideration of complaints by general managers and mayors

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

What complaints may be declined at the outset?

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

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

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the

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

- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

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

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
 - a) censure

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- b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
- c) prosecution for any breach of the law
- d) removing or restricting the person's delegation
- e) removing the person from membership of the relevant council committee.

5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:

- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
- b) the person must be given an opportunity to respond to the allegation, and
- c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

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

5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.

5.19 The general manager must notify the complainant of the referral of their complaint in writing.

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

5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
- c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.

5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.

5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons

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in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

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

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

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- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

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

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

Referral of code of conduct complaints to external agencies

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

Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
 - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
 - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or

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- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

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

Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.

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

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

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

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
 - a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
 - a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other

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information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.

- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
 - a) comply with these procedures in their consideration of the matter, or
 - b) comply with a lawful and reasonable request by the complaints coordinator, or
 - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

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

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
 - a) to take no action
 - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - d) to refer the matter to an external agency
 - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.

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- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b) that the alleged conduct is sufficiently serious to warrant investigation, and
 - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
 - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

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Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

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

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- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

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

What matters may a conduct reviewer investigate?

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

How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
 - a) disclose the substance of the allegations against the respondent, and
 - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c) advise of the process to be followed in investigating the matter, and
 - d) advise the respondent of the requirement to maintain confidentiality, and
 - e) invite the respondent to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice, and
 - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period specified by the investigator in the amended notice.

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- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
 - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
 - c) invite the complainant to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice.

Written and oral submissions

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

How are investigations to be conducted?

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

establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

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

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.

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- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.
- 7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
 - b) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - c) that the respondent be counselled for their conduct
 - d) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - e) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation

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- f) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation
- g) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered
- h) in the case of a breach by the general manager, that action be taken under the general manager's contract
- i) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
- j) in the case of a breach by a councillor, that the council resolves as follows:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies, practices or procedures
- b) that a person or persons undertake any training or other education.

7.38 In making a recommendation under clause 7.36, the investigator may have regard to the following:

- a) the seriousness of the breach
- b) whether the breach can be easily remedied or rectified
- c) whether the respondent has remedied or rectified their conduct
- d) whether the respondent has expressed contrition
- e) whether there were any mitigating circumstances
- f) the age, physical or mental health or special infirmity of the respondent
- g) whether the breach is technical or trivial only
- h) any previous proven breaches
- i) whether the breach forms part of an ongoing pattern of behaviour
- j) the degree of reckless intention or negligence of the respondent
- k) the extent to which the breach has affected other parties or the council as a whole
- l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct
- m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
- n) whether an educative approach would be more appropriate than a punitive one
- o) the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action
- p) what action or remedy would be in the public interest.

7.39 Where the investigator proposes to make a recommendation under clause 7.36(j), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.

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

- a) a description of the allegations against the respondent

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

- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - b) the investigator's determination and the reasons for that determination
 - c) any recommendations, and
 - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraph (a) only, the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under

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clause 7.36, paragraphs (a) to (c)), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

Consideration of the final investigation report by council

- 7.47 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).
- 7.48 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.49 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/s.
- 7.51 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.53 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
 - b) seek an opinion from the Office in relation to the report.
- 7.54 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.

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- 7.58 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A council may by resolution impose one or more of the following sanctions on a respondent:
- a) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - b) that the respondent be counselled for their conduct
 - c) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - d) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution
 - e) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
 - f) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting
 - g) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach
 - h) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
 - i) in the case of a breach by a councillor:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.
- 7.61 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.
- 7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

PART 8 OVERSIGHT AND RIGHTS OF REVIEW

The Office's powers of review

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

Complaints about conduct reviewers

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

Practice rulings

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

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

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- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the general manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the mayor, and
 - b) the general manager or mayor must review any action taken by them to implement the sanction, and
 - c) the general manager or mayor must consider the Office's recommendation in doing so.
- 8.21 In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
 - b) the council must:

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- i. review its decision to impose the sanction, and
- ii. consider the Office's recommendation in doing so, and
- iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.

8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

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PART 9 PROCEDURAL IRREGULARITIES

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

PART 10 PRACTICE DIRECTIONS

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

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

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

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PART 12 CONFIDENTIALITY

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

History

Minute Number	Meeting Date	Description of Change
130/2019	June, 25 2019	Adopted
	September, 4 2020	OLG Amendments
161/2020	September, 22 2020	Adopted

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RECORDS MANAGEMENT POLICY

Responsible Department:	Corporate and Community Services
Responsible Section:	Information Services
Responsible Officer:	Manager Information Services

Objective

The objectives of this Policy are:

- To ensure that all records that form part of Council business are captured into Council's Record System, TechnologyOne's Enterprise Content Management (ECM).
- To ensure that all records are stored in accordance with required standards and are available when required;
- To ensure that all records are retained in accordance with the *State Records Act, 1998*;
- To ensure that all staff are aware of their responsibilities for good record keeping.

Policy

Council is required to comply with the requirements of the State Records Act, 1998. The State Records Act, 1998 requires Council to make and keep full and accurate records as evidence of business activities. The State Records Act outlines various principles which must be complied with and are outlined as follows:

1. Principle 1 – Recordkeeping should be compliant

- 1.1. Recordkeeping should comply with legal and administrative requirements. Council must operate in an environment of accountability where the organisation as a whole and individual employees are accountable for decisions and actions.

2. Principle 2 – Recordkeeping should be reliable

- 2.1. Recordkeeping systems, procedures and practices should work reliably to ensure that records are credible and authoritative. This can be achieved by ensuring business processes where transactions become the record are operating routinely at the time the record is created and formal guidelines must be established for reporting system failures that may affect an electronic record.





3. Principle 3 – Recordkeeping should be systematic

- 3.1. Records should be made, maintained and managed systematically. Standard operating procedures should be used for all work practices including the need to document record keeping requirements.

4. Principle 4 – Recordkeeping should be managed

- 4.1. Recordkeeping must be managed through an identifiable records management program. Recordkeeping systems must have assigned responsibilities and accurately documented policies and procedures.

5. Principle 5 – Recordkeeping should be routine

- 5.1. Recordkeeping systems should be used when transacting business. Business processes and systems should be designed so that making records and capturing them into Council's recordkeeping system becomes a normal part of the work process.

6. Principle 6 – Recordkeeping should be made

- 6.1. Records should be made to document and facilitate the transaction of business and ensure capture into recordkeeping systems. Officers must ensure all records, including electronic messages, faxes and details of oral decisions or commitments are captured into ECM.

7. Principle 7 – Recordkeeping should be retained

- 7.1. Records should be retained for as long as they are required and should only be disposed of in accordance with the relevant retention and disposal authority/authorities as set down by State Records.

Refer:

- General Disposal Authority – Local Government Records (GA 39);
- General Retention and Disposal Authority –Original or source GA45 source records that have been copied;
- General Retention and Disposal Authority – Administrative Records 20019 (GA 28).

8. Principle 8 – Recordkeeping should be complete

- 8.1. A record should contain not only the content, but also the structural and contextual information necessary to document a transaction. It should be possible to understand a record in the context of the organisational processes that produced it and of other, linked records. Electronic messages that are a reply to a previous message should either contain the original message or make reference to the original message.





9. Principle 9 – Recordkeeping should be comprehensive

- 9.1. Records should document the whole of the business of a public office. Records must be made to support evidential requirements. Any outsourced functions must also keep accurate records to support those functions.

10. Principle 10 – Recordkeeping should be adequate

- 10.1. Records should be adequate for the purposes for which they are kept. There must be adequate evidence of the conduct of business activity to be able to account for that conduct within the context of relevant accountability requirements.

11. Principle 11 – Recordkeeping should be accurate

- 11.1. Records should correctly reflect what was communicated, decided or done. Business processes and systems should be designed to make it easy or if possible automatic to make accurate records of transactions. Falsifying information and removing records from files is illegal.

12. Principle 12 – Recordkeeping should be authentic

- 12.1. Records must be what they are purported to be, it should be possible to show that the recordkeeping system operates normally on any given business day so that the records created by it are credible and authoritative with adequate security to preserve their evidential quality.

13. Principle 13 – Recordkeeping should be useable

- 13.1. Records must be identifiable, retrievable, accessible and available when needed. Council should know what records it has and where all records are kept. Records should be registered and classified to enable easy retrieval.

14. Principle 14 – Recordkeeping should be inviolate

- 14.1. Records should be securely maintained to prevent unauthorised access, destruction, alteration or removal.

15. Procedure

- 15.1. Recordkeeping is the responsibility of all Council Officers. All Officers should be fully aware of their recordkeeping obligations and ensure they comply with Council's recordkeeping procedures and policies.
- 15.2. All Council staff are accountable for the decisions they make and the basis on which those decisions are made. Records must be created which substantiate the what, where, when and why of any decision or action. Good recordkeeping is the responsibility of everyone employed by Council, not just the staff of the Records Section. Council staff, contractors and the users of Council records, have a number of basic obligations to meet in relation to records and recordkeeping practices.





15.3. These obligations are to:

- 15.3.1. Be fully aware of the recordkeeping procedures laid down and adhere to these at all times when using Council's recordkeeping system.
- 15.3.2. Be mindful of the ethical issues and legislative requirements supporting the creation, use, maintenance and preservation and disposal of information and records at Narrabri Shire Council.
- 15.3.3. Ensure all inward, internal or outgoing communications, from any source, both hard copy and electronic, which have anything to do with the business dealings of Narrabri Shire Council are captured into Council's electronic recordkeeping system.
- 15.3.4. Adhere to the procedures set down for the use of Council's electronic recordkeeping systems to ensure the adequacy, accuracy, authenticity, completion and useability of all records created.
- 15.3.5. Ensure that outgoing correspondence is created in accordance with Council's policies, is dated and signed, and contains relevant reference numbers and that the recipient and subject matter are clearly identified.
- 15.3.6. Ensure that documentation, including Minutes of meetings, outgoing correspondence, etc. once captured into the recordkeeping system is finalised when confirmed or posted out.
- 15.3.7. Ensure that public access to Council's records is only provided in accordance with the policy for Access to Records, and in line with all necessary legislation including the Local Government Act, GIPA Act, PPIPA Act, HRIPA Act and Companion Animals Act.
- 15.3.8. Ensure that all hard copy files are marked out appropriately when taken from their permanent location and returned promptly once no longer required.
- 15.3.9. Ensure that all due care is taken with hard copy records to ensure they are not damaged, destroyed, or lost while in an employee's care.
- 15.3.10. Ensure that no documentation contained within a hard copy record is damaged, destroyed or altered while in an employee's care.
- 15.3.11. Ensure that private filing systems are not implemented and that Council's electronic recordkeeping system is used at all times.
- 15.3.12. Ensure that records in any format are only disposed of with the formal approval of the General Manager and the responsible Director, in line with approved disposal authorities, and procedures.
- 15.3.13. Ensure that records are created which form an audit trail which documents any actions taken and decisions made and the reason for such actions or decision, which in turn can be used to support the decision-making process of Narrabri Shire Council.





15.3.14. Ensure the accuracy of the recordkeeping system by reporting any inaccuracies, incorrect filing, titling, routing, etc. to the Records Section for correction.

15.4. Contact the Support Specialist (Information Management) to:

- Create a folder or Index in ECM;
- Change a folder title;
- Un finalise a finalised document;
- Provide assistance on the use of the recordkeeping system.

15.5. Notify the Support Specialist (Information Management) to change or amend your personal details on the recordkeeping systems, i.e. name, position, department.

15.6. Notify the Community and Customer Relations department if you or any of your staff are going to be absent for a period of time so that incoming correspondence can be redirected for actioning.

15.7. Report any breaches of security or unethical conduct which are directly related to the use of Council's records to the General Manager for investigation.

References

- *State Records Act, 1998.*

History

Minute Number	Meeting Date	Description of Change
26/2012	February 21, 2012	Adopted
75/213	February 19, 2013	Reviewed
164/2017	August 15, 2017	Reviewed
	March 30, 2021	References to Council's new record system amended Position titles of Council staff amended
	September 1, 2021	Rebranded





INTERNET, EMAIL AND COMPUTER USE OPERATIONAL PROTOCOL

Responsible Department:	Corporate & Community Services
Responsible Section:	Information Services
Responsible Officer:	Information Services Manager

Objective

1. Purpose

- 1.1. This protocol sets out the standards of behaviour expected of Persons using Narrabri Shire Council ("**Council**") computer facilities, or when making reference to Council on external sites; including social networking sites.

OPERATIONAL PROTOCOL

2. Commencement of Protocol

- 2.1. This protocol will commence from **16 August 2018**. It replaces all other policies relating to use of the Council's computers, internet texting and email facilities.

3. Application of Protocol

- 3.1. This protocol applies to all people who use Council's Computer Network by any means (**Users**). The protocol also applies to Users who contribute to external blogs and sites, including social networking sites who identify themselves as being associated with Council.
- 3.2. This protocol also sets out the type of surveillance that will be carried out in Council's workplace, relating to the use of Council's Computer Network.
- 3.3. This protocol does not form part of any employee's contract of employment. Nor does it form part of any other User's contract for service.

4. Definitions

- 4.1. In this protocol:
 - 4.1.1 "**Blogging**" means the act of using web log or 'blog'. 'Blog' is an abbreviated version of 'weblog' which is a term used to describe websites that maintain an ongoing chronicle of information. A blog is a frequently updated website featuring diary-style commentary, audio-visual material and links to articles on other websites.
 - 4.1.2 "**Confidential Information**" includes but is not limited to trade secrets of Council; non-public information about the organisation and affairs of the Council such as: pricing information such as internal cost and pricing rates, production scheduling software, special supply information;



marketing or strategy plans; exclusive supply agreements or arrangements; commercial and business plans; contractual arrangements with third parties; tender policies and arrangements; financial information and data; training materials; technical data; schematics; proposals and intentions; designs; policies and procedures documents; concepts not reduced to material form; information which is personal information for the purposes of privacy law; and all other information obtained from Council or obtained in the course of working or providing services to Council that is by its nature confidential.

- 4.1.3 **"Computer Surveillance"** means surveillance by means of software or other equipment that monitors or records information input or output, or other use, of Council's Computer Network (including, but not limited to, the sending and receipt of emails, text messages and the accessing of websites).
- 4.1.4 **"Computer Network"** includes all Council's internet, email, hand-held devices and computer facilities which are used by Users, inside and outside working hours, in the workplace of Council (or a related corporation of Council) or at any other place while performing work for Council (or a related corporation of Council). It includes, but is not limited to, desktop computers, laptop computers, Blackberry's, Palm Pilots, PDAs, iPhones, tablets, iPads, other handheld electronic devices, smart phones and similar products, and any other means of accessing Council's email, internet and computer facilities, (including, but not limited to, a personal home computer which has access to Council's IT systems).
- 4.1.5 **"Intellectual Property"** means all forms of intellectual property rights throughout the world including copyright, patent, design, trade mark, trade name, and all Confidential Information and including know-how and trade secrets.
- 4.1.6 **"Person"** includes any natural person, company, partnership, association, trust, business, or other organisation or entity of any description and a Person's legal personal representative(s), successors, assigns or substitutes.
- 4.1.7 **"Social networking site"** means Facebook, Twitter, Myspace, YouTube and other similar sites.

5 Use of Internet, Email and Computers

- 5.1 Where use is allowed, Users are entitled to use Council's Computer Network only for legitimate business purposes.
- 5.2 Users are permitted to use Council's Computer Network for limited and reasonable personal use. However, any such personal use must not impact upon the User's work performance or Council resources or violate this protocol or any other Council protocol.
- 5.3 Council gives no warranty or assurance about the confidentiality or privacy of any personal information disclosed by any User in the course of using the Computer Network for the User's personal purposes.

6 Requirements for Use

- 6.1 Users must comply with the following rules when using Council's Computer Network:





- 6.1.1. Users must use their own username/login code and/or password when accessing the Computer Network unless a generic username/login code and/or password is issued.
- 6.1.2. ***Users must change their passwords at a minimum of every 60 days for security purposes, password must meet the following criteria;***
 - ***Length must be equal or greater than 8***
 - ***Must contain at least one number (0-9)***
 - ***Must contain at least an uppercase letter (A-Z)***
 - ***Must contain at least one special character (~! @\$%^&)***
- 6.1.3. Users in possession of Council electronic equipment must at all times handle the equipment in a responsible manner and ensure that the equipment is kept secure.
- 6.1.4. Users should protect their username/login code and password information at all times and not divulge such information to any other Person, unless it is necessary to do so for legitimate business reasons, in which case the password must be changed at the next login.
- 6.1.5. Users should ensure that when not in use or unattended, the Computer device is shut down.
- 6.1.6. A disclaimer is automatically included in all Council emails, and must not be removed.
- 6.1.7. If a User receives an email which the User suspects contains a virus, the User should not open the email or attachment to the email and should immediately contact Information Services for assistance.
- 6.1.8. If a User receives an email or text message the content of which (including an image, text, materials or software) is in breach of this protocol, the User should immediately delete the email or text message and report the matter to Information Services. The User must not forward the email or text message to any other person.

7. Prohibited Conduct

- 7.1. Users must not send (or cause to be sent), upload, download, use, retrieve, or access any email or text message or material on Council's Computer Network that:
 - 7.1.1. is obscene, offensive or inappropriate. This includes text, images, sound or any other material, sent either in an email or in an attachment to an email, or through a link to a site (URL) or in a text message or as an attachment to a text message. For example, material of a sexual nature, indecent or pornographic material;
 - 7.1.2. causes (or could cause) insult, offence, intimidation or humiliation;
 - 7.1.3. may be defamatory or could adversely impact the image or reputation of Council. A defamatory message or material is a message or material that is insulting or lowers the reputation of a person or group of people;
 - 7.1.4. is illegal, unlawful or inappropriate;
 - 7.1.5. affects the performance of, or causes damage to Council's Computer System in any way; or





- 7.1.6. gives the impression of or is representing, giving opinions or making statements on behalf of Council without the express authority of Council. Further, Users must not transmit or send Council's documents or emails or text messages (in any format) to any external parties or organisations unless expressly authorised to do so.
- 7.2. Users must not use Council's Computer Network:
 - 7.2.1. to violate copyright or other intellectual property rights. Computer software that is protected by copyright is not to be copied from, or into, or by using Council's computing facilities, except as permitted by law or by contract with the owner of the copyright;
 - 7.2.2. in a manner contrary to Council's privacy protocol;
 - 7.2.3. to create any legal or contractual obligations on behalf of Council unless expressly authorised by Council;
 - 7.2.4. to disclose any Confidential Information of Council or any customer, rate payer, client or supplier of the Council's unless expressly authorised by Council;
 - 7.2.5. to install software or run unknown or unapproved programs on the Council's Computer Network. Under no circumstances should Users modify the software or hardware environments on Council's Computer Network;
 - 7.2.6. to gain unauthorised access (hacking) into any other computer within Council or outside Council, or attempt to deprive other Users of access to or use of Council's Computer Network;
 - 7.2.7. to send or cause to be sent chain or SPAM emails or text messages in any format;
 - 7.2.8. to use Council computer facilities for personal gain. For example, running a personal business.
- 7.3. Users must not use another User's Computer Network facilities (including passwords and usernames/login codes) for any reason without the express permission of the User or Council.

8. Details on Blocking Email or Internet Access

- 8.1. Council reserves the right to prevent (or cause to be prevented) the delivery of an email or text message sent to or from a User, or access to an internet website (including a social networking site) by a User, if the content of the email text message or the internet website is considered:
 - 8.1.1. obscene, offensive or inappropriate. This includes text, images, sound or any other material, sent either in an e-mail message or in an attachment to a message, or through a link to an internet website (URL), or in or attached to a text message. For example, material of a sexual nature, indecent or pornographic material;
 - 8.1.2. causes or may cause insult, offence, intimidation or humiliation;
 - 8.1.3. defamatory or may incur liability or adversely impacts on the image or reputation of the Council. A defamatory message or a message or material that is insulting or lowers the reputation of a person or a group of people;
 - 8.1.4. illegal, unlawful or inappropriate;





- 8.1.5. to have the potential to affect the performance of, or cause damage to or overload Council's Computer Network, or internal or external communications in any way;
- 8.1.6. to give the impression of or is representing, giving opinions or making statements on behalf of the Council without the express authority of Council.
- 8.2. In the case that an email is prevented from being delivered to or from a User, the User will receive a prevented delivery notice. The notice will inform the User that the delivery of the email has been prevented. The notice will not be given if delivery is prevented in the belief that:
 - 8.2.1. the email was considered to be SPAM, or contain potentially malicious software; or
 - 8.2.2. the content of the email (or any attachment) would or might have resulted in an unauthorised interference with, damage to or operation of any program run or data stored on any of the Council's equipment; or
 - 8.2.3. the email (or any attachment) would be regarded by a reasonable person as being, in all the circumstances, menacing, harassing or offensive.
- 8.3. Council is not required to give a prevented delivery notice for any email messages sent by a User if the Council is not aware (and could not reasonably be expected to be aware) of the identity of the User who sent the e-mail or is not aware that the e-mail was sent by the User.

9. Type of Surveillance in The Council's Workplace

- 9.1. On a continuous and on-going basis during the period of this protocol, Council will carry out Computer Surveillance of any User at such times of Council's choosing and without further notice to any User.
- 9.2. Computer Surveillance occurs in relation to:
 - 9.2.1. storage volumes;
 - 9.2.2. internet sites - every web site visited is recorded including the time of access, volume downloaded and the duration of access;
 - 9.2.3. download volumes;
 - 9.2.4. suspected malicious code or viruses;
 - 9.2.5. emails - the content of all emails received, sent and stored on the Computer Network. (This also includes emails deleted from the Inbox);
 - 9.2.6. computer hard drives - Council may access any hard drive on the Computer Network;
 - 9.2.7. text messages - Council may access any text messages stored on a User's hand held device and the User must provide Council with the device for the purpose of allowing such access; and
 - 9.2.8. mobile telephone records - Council may access the records of a User's hand held device that has been provided by Council.
- 9.3. Council retains logs, backups and archives of computing activities, which it may audit. Such records are the property of Council, are subject to State and Federal laws and may be used as evidence in legal proceedings, or in workplace investigations into alleged misconduct.





10. What Will The Computer Surveillance Records Be Used For?

- 10.1. Council may use and disclose the Computer Surveillance records where that use or disclosure is:
- 10.1.1. for a purpose related to the employment of any employee, the retention of any other User or related to Council's business activities; or
 - 10.1.2. use or disclosure to a law enforcement agency in connection with an offence; or
 - 10.1.3. use or disclosure in connection with legal proceedings; or
 - 10.1.4. use or disclosure reasonably believed to be necessary to avert an imminent threat of serious violence or other injury to any person or substantial damage to property.
- 10.2. For example, use or disclosure of Computer Surveillance records can occur in circumstances of assault, suspected assault, suspected harassment, stalking or bullying, theft or suspected theft of Council's property (or that of a related corporation of the Council) or damage to Council's equipment or facilities (or that of a related corporation of the Council).

11. Standards in Relation to Blogs and Sites Not Operated by The Council

- 11.1. Council acknowledges that Users have the right to contribute content to public communications on websites not operated by Council, such as social networking sites like MySpace, Facebook, twitter or YouTube. However, inappropriate use of such communications has the potential to cause damage to Council, employees, clients and suppliers. For that reason, the following provisions apply to all Users:
- 11.2. As it may not be possible for any user of an external site to conduct a search that will identify any blogged comments about Council, Users must **not** publish any material which identifies them as being associated with Council.
- 11.3. Users must not publish any material that may expose Council to any possible legal liability. Examples include, but are not limited to, defamation or discrimination proceedings.

12. Warning

- 12.1. Apart from the potentially damaging effects a blog or social networking entry may have on Council, inappropriate blogs on internal or external sites can also have adverse consequences for a User in terms of future career prospects, as the material remains widely and permanently accessible to other site users.

13. Enforcement

- 13.1. Users must comply with the requirements of this protocol. Any breach of this protocol may result in disciplinary action which may include termination of employment (or, for persons other than employees, the termination or non-renewal of contractual arrangements).
- 13.2. Other disciplinary action that may be taken includes, but is not limited to, issuing a warning, suspension or disconnection of access to all or part of Council's Computer Network whether permanently or on a temporary basis.





Variations

The Council reserves the right to vary, replace or terminate this protocol from time to time.

References

- Code of Conduct Protocol
- Social Media Protocol
- Performance and Misconduct Protocol

Protocol Version and Revision Information

Current Version: 2

Original Issue: 25 March 2013

Revision Date: 16 August 2018

History

Minute Number	Meeting Date	Description of Change
N/A	Consultative Committee 12 February 2013	New document replacing the Internet and Email Protocol (2006)
	Manex 16/8/18	Insert password change requirement 6.1 (b) 2018



12.2 NOTICE OF MOTION - URGENT WORKS ON MELBURRA ROAD (OFF KILLARNEY GAP ROAD)

Attachments: Nil

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That the General Manager provide a report to the next meeting of council on:

- (a) what work has been undertaken on Melburra Rd the last three (3) years and the cost;**
- (b) the result of an engineering staff meeting on site with interested Councillors and the Melburra Road Users Group to discuss options such as concreting the culverts, fencing, regular grading etc., to ensure they have a reliable and safe road to use;**
- (c) as a result of (b) what works are proposed to rectify the problems, the cost and source of funds.**

RATIONALE

The Melburra Rd Users Group were told several years ago by a former Director of Engineering that funds allocated for the required works needed had been diverted to another project.

The users constantly contact Council to do emergency works when every time it rains the run-off from Mt Kaputah forces Council to close the road resulting in school buses, a special needs taxi, farmers, tradies and residents not being able to use the road for days on end without using their own tractors and plant to get the children to school.

This is a risk to Council and the community if someone is injured or an fatal accident occurs. It is time for the road to be permanently addressed so that it can cope with the water that flows over it.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

Management is unaware of the reallocation of funds from Melburra Road works to another project. Funding was deferred during the drought due to a lack of water to undertake the necessary work, which was carried out in early 2020 once the drought broke.

Generally in relation to risk, Council manages the road network as a whole, with over 2,000km of road in that network. This requires Council to strike a balance when determining which works to carry out on which roads when. Mellburra Road has received over \$969,760.71 in works in the 2019-2020, 2020-2021 and 2021-2022 financial years. This is broken down as follows;

Operating Works

2019-2020 – Unknown. Further details can be sought from finance system if required.

2020-21 – \$184,563.05

2021-2022 YTD – \$44,673.83

Capital Works

2019-2020 - \$144,832.48.

This work included gravel resheeting approximately 5km of road and 6156t of gravel.

February 2021 Flood Event

Emergency Works – \$9,598.10

Immediate Restoration Works - \$66,897.42.

This work included gravel resheeting with 2242t of gravel over various locations.

March 2021 Flood Event

Emergency Works – \$54,347.27

Immediate Restoration Works - \$456,824.85.

This work included gravel resheeting using 7167t of gravel and substantial floodway rectification works.

November 2021 Flood Event

Emergency Works - \$8,023.71

Repair Essential Public Assets – Damages have been logged and are currently being estimated. This is to be lodged in the entirety of the claim and is then to be assessed by TfNSW before rectification can commence.

Absent additional funding, one option may be to reduce the number of heavy vehicle movements by reducing the number of permits approved. This will reduce the wear on the road.

On another note, it appears to roads staff that water runoff is not behaving the same way it did pre-drought. This may be caused by earthworks on private land redirecting natural flows. This has created issues in many locations across the Shire.

Councillors are reminded that they are also unable to direct staff. Resolutions should be written in a way that direction is given to the General Manager to facilitate activities.

12.3 NOTICE OF MOTION - NARRABRI TOWN CLOCK REPAIRS**Attachments: Nil**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That the General Manager submit a report to Council on the history of the maintenance of the Narrabri Town Clock and its current status in order that it may be repaired to keep the correct time as soon as possible.

RATIONALE

Former Councillor Ron Campey raised the issue of the Narrabri Town Clock not providing the correct time with Councillors recently and this now needs to be considered by Council to rectify the situation. It is a poor reflection on any town if the Town Clock is not keeping the correct time.

Council would have details on the background to this matter in its records as it was originally raised as a Notice of Motion by former Councillor Campey in the last term of Council. The Clock stopped keeping correct time in November 2021.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

In March 2020 the town clock mechanism was replaced to a four faced individual system that would self-set to eastern standard time. Since this, the clock did not need any attention or maintenance until November 2021 where flood water inundated the fuse box supply located next to Hogan oval. This water damaged fuses and was not accessible to repair until early December 2021. The clock resumed working during the first week of January.

Further works were undertaken to repair lighting switches for the ovals. During this time the power was switched off again. On resumption, the clock only had two faces working. Staff investigated power supply but with no result. The clock contractor was engaged to service the clock. This contractor works on numerous town clocks from North Qld to Melbourne. Due to flooding in February, the contractor was delayed in completing the service. The clock is now operating.

Prior to the upgrade or replacement of the mechanism Council staff would reset the clock weekly.

Management are considering raising the fuse box on a gantry to mitigate the risk of flood damage in the future.

12.4 NOTICE OF MOTION - NARRABRI WEST RAILWAY MUSEUM**Attachments: Nil**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That the General Manager submit a report to a future meeting of Council on the history of the Narrabri West Railway Museum being established in the old Narrabri West Water Tower, information on any possible grant sources to complete it, if any existing funding sources are in reserves or trust or any details on entities that may have been involved in it in the past.

RATIONALE

I understand from a constituent about the rejuvenation of the establishment of the Narrabri West Railway Museum in the Narrabri West old Water Tower as a project that Council could become involved in with the community to complement the Narrabri West Park Development around the lake.

Councils Grants Officer could work with any committee that may be in existence who may have folded for whatever reason and could support this project. Not sure if Council has any funds in Reserves or in Trust as I understand there were fund raising efforts undertaken. A Council report on the history would assist Council to consider what to do by inclusion in the Community Strategic Plan for next term of Council.

I commend this Notice of Motion to Council.

12.5 INLAND RAIL

Responsible Officer: Stewart Todd, General Manager

Author: Stewart Todd, General Manager

Attachments: 1. Council Report Item 7.1 EIS Submission N2N - 27 January 2021 [↓](#)

DELIVERY PROGRAM ALIGNMENT**3 Economy**

Objective 3.2 We will become a logistics hub for the northern inland region

Strategy 3.2.3 Explore opportunities for increasing the efficiency of freight movements

EXECUTIVE SUMMARY

Since September 2019 after the announcement of the fast tracking of the Narrabri Shire North/South Access Interface Improvement Program (IIP) project, Council has been working with the consulting firm EY on developing a business case for the increased height in the Walgett CRN line Inland Rail overpass and a rail interface to enable both north and south access to Inland Rail that will benefit not only Narrabri Shire but the broader northwest region.

The IIP project fully enables the proposed Northern NSW Inland Port (N2IP) with doubled stacked container train access and also fully enables the Narrabri Special Activation Precinct (SAP).

This business case has now been successfully completed and the attainment of the funding required to lift the Walgett CRN line Inland Rail overpass recently announced by the Deputy Prime Minister at the N2IP site.

Council previously resolved to submit a submission to the Inland Rail Narromine to Narrabri project (N2N) and has done so.

Council is currently awaiting Inland Rail's response to submissions, which Council believe have been submitted to the Department of Planning and Environment for review prior to being released to the public.

The main concerns from Council associated with the N2N were:

1. the height of the rail overpass or lack thereof in what was then the present design.
2. Connectivity; particularly for Narrabri Shire but consideration of connectivity for the broader region as well.
3. The inconsistency with Council's and Inland Rail's flood mapping.

RECOMMENDATION

1. That Council note the Inland Rail report.

BACKGROUND

At the Extra-Ordinary Meeting held 15 February 2022, Council resolved the following:

8.1 NOTICE OF MOTION - INLAND RAIL**MINUTE 011/2022**

Moved: Cr John Clements Seconded: Cr Robert Browning

That the General Manager present the documentation relating to a prior Minute No. 006/2021 on Inland Rail from the Council meeting on the 27th of January 2021 to the March Ordinary Council Meeting.

(Note that this documentation is to include any correspondence to the Commonwealth government, State government and to the project managers of the inland rail project and any correspondence, internal discussion or relevant documentation relating to discussions of support or concerns by Council over the current route selection through Narrabri.)

CARRIED

The following report addresses Council's resolution in the following context; up to the 27 January 2021, being the date of the meeting at which Council resolved to submit a submission to the Narramine to Narrabri Inland Rail project and official Council correspondence on the matter.

Document searches have been undertaken in Council's official record keeping system, TechnologyOne ECM.

Since September 2019 after the announcement of the fast tracking of the Narrabri Shire North/South Access Interface Improvement Program (IIP) project, Council has been working with the consulting firm EY on developing a business case for the increased height in the Walgett CRN line Inland Rail overpass and a rail interface to enable both north and south access to Inland Rail that will benefit not only Narrabri Shire but the broader northwest region.

The IIP project fully enables the proposed Northern NSW Inland Port (N2IP) with doubled stacked container train access and also fully enables the Narrabri Special Activation Precinct (SAP).

This business case has now subsequently been successfully completed.

Council has also outside the completed business case now successfully negotiated with Inland Rail the inclusion of the required height for the Walgett CRN line Inland Rail overpass. An outstanding outcome for Narrabri Shire, which was recently publicly announced by the Deputy Prime Minister.

Council is now working with both the Federal and State Governments, utilising the completed business case, to source funding to construct the north and south access component to Inland Rail for the benefit of Narrabri Shire, Narrabri residents and the broader region.

Council (including all the Councillors) had been fully briefed on all meetings with the Federal Government, Inland Rail and on the IIP project up until the recent Local Government election, with the newly elected Council scheduled to receive a full briefing – when time permits – to be brought up to speed.

CURRENT SITUATION

Council resolved to submit a submission to the Inland Rail Narramine to Narrabri project (N2N).

Council is currently awaiting Inland Rail's response to submissions, which Council believe have been submitted to the Department of Planning and Environment for review prior to being released to the public.

It has recently come to Council's attention that there are a number of concerning matters that Council should consider relating to its submission provided to the Narramine to Narrabri (N2N) Environmental Impact Statement (EIS).

It has come to Council's attention that an ex-Council staff member who was heavily involved in the formulation and drafting of Council's N2N EIS submission may have had an undeclared conflict of interest relating to property ownership and flooding.

With this now at Council's attention, Council may wish to consider formally reviewing the potential conflict of interest and more importantly review whether the validity of Council's EIS submission is or has been affected.

Further to the above, Council's Floodplain Management Committee submitted an unauthorised and unapproved EIS submission on official Council letterhead which was also unsigned to the Department Planning and Environment concerning the N2N EIS. Of note is that the same ex-Council staff member again was heavily involved in the formulation of this submission and the forwarding of same.

During previous discussions with Council at no time was the alignment of N2N questioned or queried, as the subject of the alignment was a discussion having been held with Council for many years and the proposed alignment was chosen based on multi-criteria analysis.

The main concerns from Council associated with N2N were:

1. the height of the rail overpass or lack thereof in what was then the present design; which has now subsequently been amended for the benefit of Narrabri Shire and the broader region.
2. Connectivity; particularly for Narrabri Shire but consideration of connectivity for the broader region as well.
3. The inconsistency with Council's and Inland Rail's flood mapping.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY AND POLICY IMPLICATIONS

Council may give consideration to further review as to whether its N2N EIS submission has been compromised by undeclared conflicts of interest.

CONSULTATION

External Consultation

Nil.

Internal Consultation

- Executive Management.
- Statutory Planning Team.

EXTRAORDINARY COUNCIL MEETING AGENDA

27 JANUARY 2021

7.1 EIS SUBMISSION N2N**Responsible Officer:** Amanda Hannay, Director Planning & Environment**Author:** Cara Stoltenberg, Strategic & Major Projects Planner**Attachments:** 1. Inland Rail – Narramine to Narrabri Project Environmental Impact Statement**DELIVERY PROGRAM ALIGNMENT****3 Economy****Objective** 3.2 We will become a logistics hub for the northern inland region**Strategy** 3.2.3 Explore opportunities for increasing the efficiency of freight movements**EXECUTIVE SUMMARY**

The Australian Rail Track Corporation (ARTC), the proponent for the Inland Rail (IR) from Melbourne to Brisbane, has released the Environmental Impact Statement (EIS) prepared for the Narramine to Narrabri (N2N) reach of the proposed rail. Council received written correspondence on 26 November 2020 from ARTC that the EIS would be on public exhibition and available on the New South Wales (NSW) Department of Planning, Industry and Environment (DPIE) Major Project website from 8 December 2020 until 7 February 2021. The main areas for Council to focus its submission are:

- Traffic, Transport and Access.
- Flood impact.
- Social and economic impact.

RECOMMENDATION

1. That Council make a submission to the NSW Government on the Environmental Impact Statement for the Narramine to Narrabri Inland Rail Project generally in accordance with this report.

BACKGROUND

ARTC is seeking approval to construct and operate the N2N section of IR. ARTC has lodged an Application for State Significant Infrastructure, Number SSI 9487. The proposal is subject to assessment under Part 5 of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act). The capital investment value of the proposal is estimated to be over \$50 million, and as a result the proposal is State Significant Infrastructure under *State Environmental Planning Policy (State and Regional Development) 2011*. The proposal is therefore subject to Part 5.2 of the EP&A Act and an EIS has been prepared addressing the Secretary's Environmental Assessment Requirements (SEARs). The proposal consists of about 306 kilometres of new single-track with seven crossings loops. It includes bridges over rivers and floodplains, roads and rail lines, new level crossings, road realignments and ancillary works.

EXTRAORDINARY COUNCIL MEETING AGENDA

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ARTC states that it “remains committed to open and ongoing community engagement”. The EIS for the N2N project is currently on public display from Tuesday 8 December 2020 to Sunday 7 February 2021.

CURRENT SITUATION

The main areas for Council to consider in the preparation of its submission are:

Traffic, Transport and Access

Lack of consultation with Council and a significant amount of assumptions have been made by ARTC regarding the use of local roads. ARTC state that “it is recommended that a traffic, transport and access management plan be produced to guide the interaction of construction activities with the public road network. The plan should be prepared in consultation with the local councils, bus and other transport operators and Transport for NSW and be subject to periodic review and update as agreed between the stakeholders.” This statement is considered the most important statement with regards to traffic, transport and access. Council needs to ensure that council officers are involved in the development of this plan (which is yet to commence).

It is imperative that all construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.

Council has already objected to the use of the existing rail line through the residential sections of town and is currently working with Ernst and Young to resolve the issue. No approval for use of this section of track should be issued until such time as the Ernst and Young submission is finalised.

Flood impact

A presentation was given by the IR N2N project team to the Flood Committee on 29 April 2020 outlining the status of the project and their flood investigations so far. The Flood Committee questioned the proposed location of the railway line immediately downstream of the township of Narrabri and highlighted the potential negative flood impacts on the town. Preliminary results showed a 1cm to 10cm increased afflux impact on Wee Waa Road and 1cm to 5cm impact for the Millicent Drive residential area for the 1% Annual Exceedance Probability (AEP) event

IR have maintained that their target for all projects is to limit the afflux on existing buildings to 10mm (1cm). The results show some buildings having an afflux of between 1cm and 5cm. Discrepancies between N2N's flood modelling and Council's flood modelling were also apparent, potentially due to different LIDAR data used.

The Flood Committee concluded to continue to hold discussions with the IR N2N project team regarding flood impacts on the township of Narrabri with the hopes of mitigation any negative flood impacts on the local community. However, the Committee do not feel that IR have been as transparent as Council with regards to facilitating the sharing of information with the view to ensure potential flood impacts caused by the N2N project are mitigated.

While the IR N2N project team may have carried out various community consultation activities on the project in Narrabri and with Narrabri residents, such impacts as the increased afflux during the 1% AEP flood event were never discussed with landowners, even those who would be affected by the predicted afflux. The Flood Committee is extremely concerned with this lack of transparency by

EXTRAORDINARY COUNCIL MEETING AGENDA

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IR to its residents and feels that this is in contravention to the NSW Government's Flood Prone Land Policy and the Floodplain Development Manual.

The Flood Committee is further troubled that IR refused its's numerous requests to include Mulgate Creek and local tributary flooding in their model and therefore flood impact assessment for the EIS. On 23 November 2020 Council received the following comments from IR's Design Manager, Joel Acosta;

"We checked the schedule to see if we could add it without impacting the EIS submission date, but unfortunately it was not possible..... The updated flooding and hydrology assessment report will be included in the Submissions and Preferred Infrastructure Report (SPIR) in 2021. As the name suggests, that is the document where Inland Rail will have to reply to all the formal submissions received during the EIS public exhibition period. For this particular example, Council will add a submission requesting Mulgate Creek scenario to be included, and Inland Rail will reply "done, please refer to updated document".

Council should request that:

- Mulgate Creek and local tributary flooding be investigated in the detailed design flooding and any changes to the conclusions made in the EIS be put out again for public exhibition.
- Flood mitigation measures form part of the conditions of consent for the Project to ensure that impacts on buildings and properties are appropriately managed.
- Council asks that all necessary flood modelling be undertaken to confirm the extent of any impacts on properties and that all necessary flood mitigation measures are implemented to ensure that impacts are appropriately managed and that these be required as a condition of consent.

IR be require to investigate any potential opportunities to mitigate flooding for towns within the project area through the alignment of the project or other works as a

Social and economic impact

Council has consistently been a strong advocate for IR to the point that it is developing an industrial activation estate called the Northern NSW Inland Port (N2IP). A part of the strategic intent of IR is to assist communities that the IR infrastructure traverses to leave legacy items for current and future generations.

The EIS concludes that the key potential benefits of the Project include:

- Increased employment opportunities through demand for construction and operation workforce and business opportunities through demand for goods and services mainly during the construction phase.
- Potential of reduced freight road traffic along regional and local roads as some freight would be transported by rail during operation.

The possible adverse social impacts include:

- Impacts on properties and landholders due to property acquisition and land access required during construction.

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- Altered access during operation for some rural properties due to fewer level crossings, and associated potential impacts to agricultural operations.
- Amenity impacts due to changes in noise levels, air quality, views and landscape during construction and operation.
- Potential stresses in range of areas, including but not limited to the following:
 - i. Education and training
 - ii. Medical
 - iii. Policing
 - iv. Childcare
 - v. Ambulance
 - vi. Private enterprise businesses
 - vii. Miscellaneous government departments.

Council should request that:

- Landholders are provided with a level playing field and fully consulted in any property acquisition and land access discussions and that as far as is reasonably practicable the operation of rural properties is not detrimentally effected by operation of the IR.
- IR initiate and lead a whole of government task force to address the very real local government and community concerns of the N2N project.
- The IR infrastructure grade when separates over the Walgett Branch Line, it does so at a height that allows for double stacking from the N2IP site.
- Infrastructure is included in the project to facilitate access in a northerly and southerly direction directly from the Walgett Branch Line.
- The multi-function site compound proposed to be developed at Narrabri West be repositioned to Council's N2IP site. This to include the following:
 - i. IR's multi-function offices and amenities building
 - ii. Laydown areas
 - iii. Materials storage
 - iv. Fixed and mobile concrete batching facilities
 - v. Fuel and hazardous materials storage
 - vi. Maintenance facilities
 - vii. Welding yard
- Strategic water bores be positioned to allow community organisations like the NSW Rural Fire Service to access water to fight forest fires. Further community benefits could be attained by providing water supply for residential consumption and to Council's N2IP site for commercial/industrial usage and economic growth.

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- All existing surplus residential rooms available at CIVEO be taken up prior to the development of any new facility. If a new facility is required, then strong consideration should be given to the legacy aspect of that development. Therefore, a temporary workforce accommodation facility should be designed, situated and constructed to allow for the potential future use as an aged care facility, motel accommodation or units etc. Council requests that it be consulted to ensure the most appropriate design and location is established for this potential long-term, community benefit.

FINANCIAL IMPLICATIONS

Draft damage estimations calculated show the following results for a 1% AEP flood in Narrabri;

- i. Regional Flooding (Namoi River):
 - There are in excess of 2,190 flood affected buildings, of which;
 - Over 900 residential buildings would be inundated above floor level, and
 - Over 300 non-residential buildings would be inundated above floor level.
 - The total flood damage costs would be in the order of \$137 million (excluding road, bridge and agricultural flood damages).
 - 96% of the flood damage costs are associated with residential properties.
- ii. Local Flooding (Mulgate Creek and Long Gully):
 - There are in excess of 180 flood affected buildings, of which;
 - Over 130 residential buildings would be inundated above floor level, and
 - Over 40 non-residential buildings would be inundated above floor level.
 - The total flood damage costs would be in the order of \$24 million (excluding road, bridge and agricultural flood damages).
 - 97% of the flood damage costs are associated with residential properties.

The above estimates do not take in to account the increased afflux predicted by the installation of the IR N2N section of rail immediately downstream of the township of Narrabri in its proposed alignment.

Estimates of damage to and/or relocation of Council owned infrastructure is unable to be determined using the information provided by the proponent.

STATUTORY AND POLICY IMPLICATIONS

Nil.

EXTRAORDINARY COUNCIL MEETING AGENDA27 JANUARY 2021

CONSULTATION

The Environmental Impact Statement (EIS) for the N2N project is currently on public display from Tuesday 8 December 2020 to Sunday 7 February 2021.

External Consultation

- Council has participated in the Narromine to Narrabri (N2N) Community Consultative Committee (CCC) since its inception and is represented by Deputy Mayor Staines.
- The Flood Committee.

Internal Consultation

The Planning Proposal has been prepared incorporating input and advice from relevant sections across Council. Including but not limited to;

- Bill Birch, Manager Economic Development.
- Michael Davis, Manager Waster Services.
- Anthony Smetanin, Manager Design Services.
- Sue Jackson-Stepowski, Heritage Advisor.
- Erika Dawson, Assessment and Monitoring Coordinator.

Inland Rail – Narromine to Narrabri Project
Environmental Impact Statement

NARRABRI SHIRE COUNCIL
DRAFT SUBMISSION REPORT

Version 1.0
January 2021

EXTRAORDINARY COUNCIL MEETING

27 JANUARY 2021

Inland Rail – Narrabri to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

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EXTRAORDINARY COUNCIL MEETING

27 JANUARY 2021

Inland Rail – Narramine to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

INTRODUCTION

1. BACKGROUND

The Environmental Impact Statement (EIS) reviewed considers the potential impacts of the proposal to construct and operate the Narramine to Narrabri section of Inland Rail (‘the proposal’). The EIS has been prepared to support Australian Rail Track Corporation’s application for approval of the proposal in accordance with the requirements of Division 5.2 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act).

The proposal is State significant infrastructure and is subject to approval by the NSW Minister for Planning and Public Spaces. The EIS addresses the environmental assessment requirements of the Secretary of the Department of Planning, Industry and Environment (‘the SEARs’). The EIS was prepared based on the draft SEARs, which were finalised on 9 September 2020. The proposal is also determined to be a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) (EPBC Referral 2018/8259) and requires approval from the Australian Minister for the Environment.

The EIS focuses on the key assessment requirements specified by the SEARs. It is supported by specialist technical assessment reports; the proponent has requested that the proposal be declared by the Minister for Planning and Public Spaces as critical State significant infrastructure under section 5.13 of the EP&A Act.

2. AIM

The report aims to provide details of the Narrabri Shire Council response to the Environmental Impact Statement (EIS) for the Inland Rail – Narramine to Narrabri Project.

The aim of this submission is not to examine the complex scientific information in great detail or specific modelling methods involved in the project but rather to identify any potential issues that may directly or indirectly impact Council or Narrabri Shire or the surrounding community. Council is relying upon the Department to have more critical sections of the EIS peer reviewed by independent experts in relevant fields and for those peer reviews to be available to the community for review.

This document has been prepared to raise with the Department any concerns that Council and community representatives have with regards to the project and its potential impacts on the amenity, economic development and environment.

3. METHODOLOGY

Council has extensively review the EIS with chapters being considered by the relevant department professionals within Council. It should be noted that Council does not have the technical capability to deal with complex issues such as ground water system interconnectivity and human health impacts. Council has simply identified issues that warrant further investigation and/or agreement due to their importance in the local area.

Council are reliant on the relevant consent authorities to provide technical guidance and

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Inland Rail – Narrabri to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

appropriate rigorous review of the more complex science upon which the industry relies in their determination of the application.

CHAPTER REVIEW

1. ROUTE ALTERNATIVES AND OPTIONS

KEY CONCERN/S:

- The proposed route does not provide an optimum outcome for Narrabri Shire. It is imperative that the serious omissions from the EIS be adequately addressed. Further that to realise a benefit to Narrabri Shire and its surrounds, Council respectfully requests that the proponents be required to demonstrate that:
 1. the rail operations will not negatively impact on the local community, by ensuring (1) all rail infrastructure is located outside the higher density commercial and residential areas; and (2) all construction impacts are mitigated and any residual damage to the road network is repaired;
 2. the rail infrastructure does not increase the flooding; and
 3. all construction infrastructure and services setup are located so that should Narrabri Shire be able to benefit from their ongoing use, ownership is transferred to Council.

OBSERVATIONS:

While it is acknowledged that considerable time and effort has been expended on determining a suitable route it is clear from our (1) flood modelling; (2) road network; and (3) future development that the route proposed is not optimised for the local community.

Furthermore, due to its proposed location, Narrabri will have significant impacts to the extent that several properties will be worse off.

It was expected that the Inland Rail N2N would have a positive overall nett outcome for our Shire and while this is possible in many cases that opportunity has not been realised.

Appendix A offers a flood map to show the extent of the issue that needs to be addressed and unfortunately not only does the EIS statements not concur with this modelling, there is insufficient information provided for an assessment of the routes to provide any comment.

In a location immediately downstream of the Narrabri Township and crossing the Namoi River Floodplain in the widest location available. It seems counter-intuitive to cross Bohena Creek with a bridge near the Newell, then the Namoi River, the Island Road floodplain, Narrabri Creek and the floodplain between Wee Waa Road and Auscott Sheds, with a enormous bridge immediately downstream of the town, rather than going downstream

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and crossing these with one structure less than half the length of the existing small bridge across the Namoi and Narrabri Creek.

The following benefits may be achieved with such an alignment:

- I. There is no bridge over Bohena Creek near the Newell Highway;
- II. There is no need to squeeze past Bohena Creek again 5.7 kms past the proposed Bohena Creek Bridge;
- III. There is no need to cross Spring Creek near this same location;
- IV. The crossing of the Namoi River is now downstream of where the Namoi River, Narrabri Creek and Bohena Creek join and the bridge length required can be shortened by around 2.0 kilometres compared to the bridge length required at the current location on the edge of town;
- V. There are no flooding and/or noise issues or land valuation reductions on the north-western edge of Narrabri Town;
- VI. Access requirements to the Narrabri Sewage Treatment Plant across the line is no longer required and the Stock Route access is simplified;
- VII. There is no longer any need to drag the large trains up over Knights' Hill opposite the Wheat Research Station.
- VIII. Potential cost savings in construction cost and costs to Narrabri Residents;
- IX. Potential shortening of track distance by approximately 4km.
- X. Nil disruption from noise on the edge of Narrabri; and
- XI. Most importantly, the removal of any potential flood impacts on the township of Narrabri.

2. STAKEHOLDER ENGAGEMENT

KEY CONCERN/S:

- The alignment can not be confirmed by the proponent as there has been insufficient consultation with Narrabri Shire Council to gain agreement on the local interfaces with the proposed alignment.

Further consideration is required to ensure that:

- a) The significant amount of assumptions made by Inland Rail on many local issues are agreeable with the asset owner such as;
 - i. the use of local roads,
 - ii. the identification of any potential local heritage items and discussions with heritage practitioners, historical societies and the like.
- b) All construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.

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- c) There is no use of the existing rail line through the residential sections of town. No approval for use of this section of track should be issued until such time as the EY submission is finalised.
- d) The proposed temporary construction camp is subject to the same conditions as those applied to the MAC (CIVEO) development.
- e) The proposed Narrabri borrow pit may require a Development Application from the property owner prior to use.

3. BIODIVERSITY

KEY CONCERN/S:

- The extent of vegetation clearing is excessive and there is no justification given to support this approach nor is there a Vegetation Management Plan to assess.

OBSERVATIONS:

The proposed project includes a large amount of vegetation to be removed. The number of hollow bearing trees to be removed (13,000-30,000 estimated) is considered excessive, it is therefore imperative for the proponent to ensure appropriate consultation is made with all relevant stakeholders prior to any vegetation being removed, and that all legislative requirements are adhered to.

4. FLOODING

KEY CONCERN/S:

- Even with data being made available, the flood modelling and subsequent conclusions are incorrect, as the model does not appear to include the impact of the rail on Mulgate Creek flooding of properties.
- Some of the assumptions are not consistent with recommendations in Australian Rainfall & Runoff (ARR 4th edition) Guidelines.
- The stated design criteria has not been used in determining the alignment.
- The flood level impacts at residential and commercial properties shown in the EIS would suggest that the proposed N2N alignment and design would not comply with the Narrabri Local Environmental Plan 2012 (LEP).
- Despite the reported increased flooding impact during construction, no suitable mitigation measure has been proposed.
- The impact of the rail on Mulgate Creek flooding of properties was not calculated by the proponent and needs to be included.
- The detrimental flooding impact on Narrabri Shire properties is not acceptable to Council.

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OBSERVATIONS:

- a) Table 1 shows the number of buildings within Narrabri showing that the rail impact would increase above floor level flooding by more than 10 mm. The results have been separated by properties flooded by Bohena Creek and by Namoi River. The impact of the rail on Mulgate Creek flooding of properties was not calculated by the proponent.

Table 1 - No. buildings subject to above floor flooding and impacted by more than 10 mm for Bohena Creek and the Namoi River

Source	No. of buildings subject to above floor flooding and impacted by more than 10 mm ^a							
	10% AEP	5% AEP	2% AEP	1% AEP	1% AEP +CE	0.5% AEP	0.2% AEP	FMP
Bohena Creek	0	29 (35)	29	29 (47)	25	20	294	400
Namoi River	0	8 (14)	20	22(133)	53	34	245	5,880

^a Numbers in brackets refers to the buildings flooded for the construction phase

- b) The flood impact of the rail is potentially underestimated. Research by TUFLOW suggests that both form loss coefficient and a blockage factor should be used. The proponent has only used a form loss for the bridge impact assessment. The inclusion of a conservatively low blockage factor of 5% would increase the number of properties impacted by the rail.
- c) The proponent has assumed that the bridge piers would not accumulate debris and cause additional blockage, which is not consistent with recommendations in ARR. The inclusion of additional 5% debris blockage (total 10%) would further increase the flood afflux and the number of impacted properties.
- d) It is critical the modelling is corrected to properly reflect the impact of Mulgate Creek flooding. The most recent three floods in Narrabri, which caused above floor flooding, has been from Mulgate Creek. Mulgate Creek flooding generally occurs with minimal Namoi River flows. Modelling of the local Mulgate Creek catchment excluding Namoi River flows shows that the rail (assuming 5% blockage of the piers) would cause flood impacts on a number of properties along Wee Wee Road.
- e) The number of properties that would be flooded above floor level under existing conditions both within Narrabri and along Bohena Creek has been grossly overestimated.
- For the Namoi River, the number of buildings flooded above floor level estimated by the proponent is some 4 times higher for the 5% AEP event and some 3 times higher for the 1% AEP when compared to the numbers estimated for the Narrabri FMP. The reasons for the discrepancy are not clear. However, the overestimation tends to suggest that the flood level impacts are not significant when compared to the existing problems.

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- ii. Along Bohena Creek, the proponent estimated some 72 buildings flooded above floor level by the 20% AEP event and 199 buildings for the 5% AEP event. This is not consistent with local observations and is not likely correct. It appears that the proponent have not considered the recorded flows at the Bohena Creek gauge when defining their design discharge estimates. For instance, the proponent's 20% AEP discharge estimate of 1,392 m³/s is about 2.8 times the largest flow recorded at the Bohena Creek gauge over the past 25 years. The use of this data would significantly reduce design discharges and the number of properties flooded above floor level under existing conditions along Bohena Creek.
- iii. the proponent have predicted more properties potentially impacted during the construction phase. Although these impacts would only occur if a flood event occurred during the construction phase, the number of potential properties is significant.
- f) The EIS states that the proponent have adopted the following afflux (flood level impact) performance criteria when designing the rail (Table 3.1 of Technical report 3) for events up to and including the 1% AEP event:
- i. Afflux less than 10 mm for:
 - properties flooded above the habitable floor level;
 - sensitive infrastructure; and
 - highways and sealed rural roads.
 - ii. Afflux less than 200 mm for urban and recreational areas.
- Table 1 shows that the the proponent rail design does not comply with their own design objectives with afflux exceeding the criteria at multiple properties. They have also not provided any justification for not meeting their own non-compliance. Meeting their design objectives could be met by relocating the rail downstream or extending the rail viaduct to the north.
- g) The proposed rail embankment crosses the Lower Namoi Valley floodplain, which is a declared floodplain under the Water Management (General) Regulation 2018. Under this plan, any flood works on the floodplain are regulated by the Floodplain Management Plan for the Lower Namoi Valley Order 2020 issued under the *Water Management Act 2000* (FMP). A 'flood work' within the FMP means a work that is:
- i. situated in or in the vicinity of a river, estuary or lake, or within a floodplain, and is
 - ii. of such a size or configuration that (regardless of the purpose for which it is constructed or used), it is likely to have an effect on the flow of water to or from a river, estuary or lake, or the distribution or flow of floodwater in times of flood.

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- h) the proponent has stated that the rail is NOT a 'flood work' as defined by the FMP. However, the N2N rail embankment on the Namoi River floodplain would appear to fit within this definition and therefore would be a flood work. Although the project is a State Significant project and is not subject to the conditions of the FMP, it would be expected that the Minister would need to consider these criteria for this type of flood work. Under the FMP, the proposed works within the AD zone would generally not be permitted. The works in the B, C and CU management zones stipulate that the Minister would need to consider (amongst other criteria) whether the flood works would likely:

- i. increase flood levels by greater than 20 cm on adjacent landholdings and other landholdings; and
- ii. increase flood levels resulting in impacts on high value infrastructure (buildings).

The EIS demonstrates that the N2N rail does not comply with either of these criteria in Narrabri Shire from the Namoi River or Bohena Creek.

- i) The proposed N2N rail is located within the Narrabri Flood Planning Area as given in the Narrabri Local Environment Plan 2012. LEP states that "is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties". The flood level impacts at residential and commercial properties shown in the EIS would suggest that the N2N would not comply with the Narrabri LEP.
- j) A Floodplain Management Plan has recently been completed for Narrabri Shire (Narrabri FMP). The current recommendation within the Narrabri FMP being considered by Council would mean that the proposed rail would not be approved as it proposes flood impacts exceeding 10mm on external property.

5. HERITAGE

KEY CONCERN/S:

- The majority of the conclusions made are based on desktop reviews and existing literature by the same authors.
- Consultation with local heritage practitioners, historical societies and the like, has been missed.
- No previous heritage studies completed by Council have been referenced.
- Any potentially impacted site requires more input/history from locals and/or any descendants to determine if the alignment is acceptable.

OBSERVATIONS:

- a) It is stated that during the field survey, and also the borrow pit investigation, that sites and/or artefacts were identified from roadways or by using a desktop only assessment and that "consequently, thorough inspections were not able to be

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undertaken". Ground-truthing of this information was not undertaken throughout the entire investigative process.

The information presented in the EIS is confusing, noting in separate sections that visual assessments were undertaken around key construction infrastructure, and also that no site visits occurred.

Majority of the conclusions made are based on desktop reviews and existing literature by the same authors. Consultation with local heritage practitioners, historical societies and the like has been missed. No previous heritage studies completed by Council have been referenced.

- b) The NSW Resource and Conservation Assessment Council commissioned Pauline Curby and Andrea Humphreys to undertake a Non-Indigenous Cultural Heritage Study for Stage 2 of the Brigalow Belt South Bioregion in 2002 (Curby and Humphreys, 2002). Categorised into forestry areas, the study found a total of 188 heritage items. Of those, the following eight sites are located within or in close proximity to the current study area:

- i. Item No. 140 – Fire Tower Ruins (Pilliga East State Forest (SF));
- ii. Item No. 142 – Robinson Hut Ruins and Rubbish Dump (Pilliga East SF);
- iii. Item No. 143 – Dam Dug by Hand (Pilliga East SF);
- iv. Item No. 148 – The Aloes Picnic Site and pastoral station (Cumbil SF);
- v. Item No. 150 – Graves: Samuel Cormie d.1872 and unknown (ref Narrabri LEP as 'Aloes Well');
- vi. Item No. 151 – Rocky Creek Mill Site (Euligal SF)
- vii. Item No. 152 – House Site (Euligal SF)
- viii. Item No. 153 – Grave (Euligal SF).

Only the general locations of these items were given in this report. One of the tasks of the field surveys for the current proposal was to ground truth these items.

- c) With regards to Travelling Stock Route land, outdated documentation is referenced.
- d) No reference is given to any potential heritage impacts of the proposed construction and accommodation compound/s.
- e) It is noted that project specific management plan/s, including heritage management plans are yet to be written or made accessible. Council requests input into the development of these plans. It is further requested that Council have input and the ability to review draft interpretation prior to final production of any sign within the Narrabri Shire and all associated web site content.
- f) Council requests thematic survey of the proposed alignment be carried out and provided to Council. All identified cemeteries and isolated grave sites are to be surveyed and inventoried. Details of the removal of any graves/cemeteries is to be provided to Council before any such removal takes place. A Heritage Interpretation

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Strategy is to be prepared particularly where heritage items are proposed to be removed or archaeology site excavated.

- g) It is requested that a copy of the archival photographic recording of the "two-storey barn, Bohena Creek", to given to Council for its records. The heritage assessment has not considered 'scarcity or rarity' of 19thC and early 20thC heritage places. For example; how scarce is the barn locally, regionally or Statewide?
- h) It is noted that the natural world has not been considered as part of 'heritage' in this assessment unless noted under a specific piece/s of legislation or policy. For example: under visual assessments, or Bridge Aesthetics: design guideline to improve the appearance (and curtilage) of bridges in NSW Technical report Landscape and Visual Assessment.
- i) There is no heritage assessment of 'cumulative impacts' within the Shire. Cumulative impacts are solely "defined as the successive, incremental, and combined effect of multiple impacts, which may in themselves be minor, but could become significant when considered together". However, this is only taken as a consequence of other major projects under construction, and only considered if in combination with 7 other major infrastructure developments within the area and in terms of scale and timing. For example; Narrabri Gas Project, Silverleaf Solar Farm, Narrabri Inland Rail – Narrabri to North Star, APA - Western Slopes Pipeline, wind farms. This is not, and is rather entirely different to, general heritage assessment and not considered as part of heritage best practice.

6. TRAFFIC AND TRANSPORT

KEY CONCERN/S:

- The Concept Design referred to in the EIS has not been issued to Council for review which is necessary to make a response to the EIS.
- It needs to be clear that the haul road is accessed off the Newell Highway to minimise the impact to local residential streets.
- No opportunity has been provided to input regarding the design to ensure the proposal is acceptable.
- The EIS states that "Access for trains travelling from west to north is possible via the existing track through Narrabri" despite Council's previous objection to this. No details of how unacceptable impacts will be mitigated are provided.
- The EIS states that "Construction traffic access routes have been developed to minimise the impact to the road network and major population centres" however no details are provided in the EIS nor has Council been consulted.
- There is insufficient traffic analysis and consultation acknowledged by the EIS to confirm routes and impacts on the transport network making it imperative that a *Traffic, Transport and Access Management Plan* is required and approved by Council as a pre-requisite to the project approval.

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- The EIS implies that the location of the workforce accommodation camp has been agreed. As it is yet to be finalised it is imperative that a location be agreed prior to the project commencement as the associated permanent infrastructure and services needs to provide an ongoing benefit and not displace or detract. It is expected that the site is subject to the same conditions as those applied to the MAC (CIVED) development.
- A significant increase in traffic (specifically heavy vehicles) on the network is proposed. Accordingly, pavement testing will be required on any local road that is proposed as a construction route and a contribution be made by the proponent for maintenance and repair.

OBSERVATIONS:

Technical Report 10 – Traffic and Transport Assessment

- Page ii – This section states "Additional traffic generating construction activities would include the delivery of water, spoil and plant and equipment. Movements associated with these activities would mainly travel via the construction haul road which would run along most of the proposal site with gated access to public roads."*
A condition is required to ensure the haul route is accessed off the Newell Highway to minimise the impact to local residential streets.
- Page iii – This section states "Input would be sought from relevant stakeholders (including local councils and, Transport for NSW) prior to finalising the detailed design of those aspects of the proposal..."*
To date there has been no request for input regarding the design to ensure that comments on the design are received.
- Page 9 – Figure 1.3b – This diagram indicates the location of a proposed borrow pit (Borrow Pit D) located along Perimeter Road. Details on the volume extracted from the borrow pit are required as this may require a Development Application from the property owner to be submitted.*
- Page 53 – Table 5.1 states "Access for trains travelling from west to north is possible via the existing track through Narrabri".*
Council has already objected to this option and is currently working with EY to resolve the issue. No approval for use of this section of track should be issued until such time as the EY submission is finalised.
- Page 59 – This section states "For the duration of construction, public roads would be used as access routes to transport people and materials to the proposal site."*
All construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.

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- f) Page 65 – Table 5.5 identifies the predicted number of vehicles that will access the local road network during construction. This table indicates a total of 374 vehicles.
- All construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.
- g) Page 68 – Table 5.6 identifies the proposed construction access routes and nominate the following local roads: Mooloolbar Street, Yarrle Lake Road, Gibbons Street, The Island Road, Old Gunnedah Road, Saleyards Lane (and other roads forming part of the Newell and Kamilaroi Highways). These roads front the hospital, aged care and alike suggesting that no consideration has been given to the impact of using local roads. Sensitive uses and emergency access routes must be avoided.
- All construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing and should form part of determining the Traffic Management Plan consultation.
- h) Page 69 – This section states *"Public roads would be used for travel between the source/origin and the nearest haul road access point."* Local streets should only be used where no alternative is permissible. It is recommended that the haul road is accessed off the Newell Highway where accessible.
- i) Page 83 – This section states *"Prior to planning the use of any local roads, consultation with the council would be undertaken to determine their suitability for use."* *"Prior to construction an existing pavement condition survey would be undertaken on all impacted roads."* Currently there is no detail sufficient to ensure that no construction approvals (e.g. Section 138) are issued until such time as the condition survey is completed. It should also be noted that this condition survey needs to be conducted with the assistance of Narrabri Shire Council officers, as some pavements may need upgrading prior to use by construction traffic.
- j) Page 97 – Table 7.2 states *"A traffic, transport and access management plan would be prepared and implemented as part of the CEMP."* This is a key document in finalising any traffic and transport related issues and needs to be reviewed by Council prior to construction.
- k) Page 101 – This section states *"It is recommended that a traffic, transport and access management plan be produced to guide the interaction of construction activities with the public road network. The plan should be prepared in consultation with the local councils, bus and other transport operators and Transport for NSW and be subject to periodic review and update as agreed between the stakeholders."* This is the most important statement in the entire document. Council needs to ensure that council officers are involved in the development of this plan (which is yet to commence).

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Chapter A7 – Proposal features and operation

- a) *Page A7-2 – This section states “Design work to date has involved producing a reference (also known as a concept) design.” This concept design has not been issued to Council for review.*
- b) *Page A7-2 – This section states “Detailed design would include further engineering, construction planning and detailed assessment work, and would be subject to further input from key stakeholders and the community.” This is yet to occur, and consultation should be occurring at the concept stage before it enters the detailed design phase.*
- c) *Page A7.7 – Table A7.1 “Narrabri to Walgett Line: The proposal would cross the Narrabri to Walgett Line on a bridge to the west of Narrabri. About 1.8km of new track would be provided to allow trains from the west to access the proposal and travel south. Access for trains travelling from west to north is possible via the existing track through Narrabri.” Council has already objected to this option and is currently working with EY to resolve the issue. No approval for use of this section of track should be issued until such time as the EY submission is finalised.*

Chapter A8 – Construction of the proposal

- a) *Page A7-2 – This section states “Design work to date has involved producing a reference (also known as a concept) design.” This concept design has not been issued to Council for review.*
- b) *Page A8-24 states “The proposed locations were identified in consultation with councils...” These negotiations regarding the location of the workforce accommodation camp have yet to be finalised (e.g. possible use of the NZIP site).*
- c) *Page A8-24 states “Each temporary workforce accommodation is expected to operate for the duration of construction and accommodate up to 500 people.” This site should be subject to the same conditions as those applied to the MAC (C/VED) development.*
- d) *Page A8-31 states “The existing public road network would be used for external delivery of all materials from commercial suppliers and borrow pits, and for the movement of the workforce.” All construction traffic must utilise the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.*
- e) *Page A8-32 states “New access from public roads would be provided via a new temporary connection. All connections to public roads would be designed to the appropriate standard and in consultation with the road manager.” Access to local roads should be kept to a minimum, however where this is the only alternative for access temporary intersections/vehicle access points shall be constructed in accordance with Council specifications.*

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Chapter B11 – Traffic and transport

- a) Page B11-11 states *"Narrabri – up to 82 light vehicle movements and 336 heavy vehicle movements per day."* This is a significant increase in traffic (specifically heavy vehicles) and pavement testing will be required on any local road that is proposed as a construction route to ensure the pavement can withstand this impact. All construction traffic utilises the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.
- b) Page B11-12 states *"To minimise the potential for traffic and access impacts, short-term closures would be undertaken during the night..."* Road closures will be subject to review and will require alternate access (e.g. detour, side-track, stop/slow) for local traffic.
- c) Page B11-12 states *"The remainder of the surrounding road network is not expected to be significantly impacted by construction traffic. This is because the roads have sufficient capacity to absorb the increased traffic..."* The proposed traffic volume increases will have an impact to local traffic, and the road pavement will be subject to additional stresses that it may not have been constructed to withstand. Pavement testing will be required on any local road that is proposed as a construction route to ensure the pavement can withstand this impact. All construction traffic must utilise the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.
- d) Page B11-12 states *"Construction traffic access routes have been developed to minimise the impact to the road network and major population centres."* These routes have not been identified in the report and consultation with Council on the use of these roads has not been undertaken.
- e) Page B11-13 states *"...access would be provided from secondary roads where practicable to minimise potential disruptions on the arterial road network."* This has not been consulted with Council, and all construction traffic must utilise the temporary haul road and that the haul road is accessed via the Newell Highway. Any use of local roads will require the approval of Council prior to construction commencing.

7. LAND USE AND PROPERTY

KEY CONCERN/S:

- Council has not been consulted in its role of Land Owner other than the receipt of a notification.
- There has been no discussion on utilities, network service severance and whether it is possible to maintain the existing services. It is assumed that the proponent will undertake a 'Utilities Investigation' similar to the road audit they are currently

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Item 7.1- Attachment 1

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completing, as part of the detailed design which includes gaining agreement on a suitable approach to maintain all services.

- The EIS does not appear to address conflicts of use whereby an adjoining land owner (to the route) is adversely affected by the construction and/or operation of the rail and its infrastructure such as redirection of water flows, redirection of air flow, dust and noise. This needs to be addressed prior to completion of the detailed design.
- Due to the resultant lot size of residual land it may be necessary to limit future uses. For example, a small lot may not be commercially viable and therefore it proposed to be used as 'lifestyle/ rural residential in an area not suitable for such development. Council therefore may require such lots to be amalgamated and/or rezoned before being made available for sale. Accordingly, all resultant lot sizes must comply with the zoning and approval must be sought from Council before any non-compliant residual land is made available for sale.
- Mitigation measure - *opportunities to refine the design to avoid construction footprint impacts on travelling stock reserve R9489 'Narrabri West' would be investigated* should be clarified to provide more certainty that current and future uses can be maintained after construction.
- There is little evidence of the consideration of maintaining or enhancing pedestrian and recreational connectivity. This needs to be considered and opportunities to improve liveability factors such as land use, built form, quality and conservation of public spaces and natural environments, cultural characteristics, efficiency of transport networks, accessibility to work, education, health and community services and social and recreational opportunities should be included.

8. LANDSCAPE AND VISUAL AMENITY

KEY CONCERN/S:

- There is insufficient information in the EIS and available in the public domain to adequately assess the landscape and visual amenity. While there is now mock aerial images available (outside the EIS) this does not replace the need for Landscape Sectional and Perspective Plans nor Landscape Management Plan to be submitted for approval. Council requests the opportunity to review and comment on these Plans.

OBSERVATIONS:

It is unclear what the proposed treatment for crossing of the Narrabri-Walgett Line would look like. There does not appear to be any information on this. The visual impact assessment certainly doesn't address it.

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The assessment shows an indicative bridge over Yarrie Lake Road (figure B13.5), but nothing for the rail crossing.

9. WASTE MANAGEMENT**KEY CONCERN/S:**

- No consideration of the proposed waste management can be undertaken as there has been no consultation nor details of the *Waste Management Plan* found in the EIS.

OBSERVATIONS:

The EIS states that:

- i. The waste management plan will define the processes, responsibilities and management measures that would be implemented to manage waste. This would include procedures for the assessment, classification, management and disposal of waste in accordance with the *Waste Classification Guidelines*.
- ii. Waste management during construction and operation will follow IR procedure and relevant environmental protection licenses and regulatory requirements.
- iii. Inland Rail will engage appropriately licensed waste contractors to manage the collection, recycling or disposal of waste. Contractors will also be required to provide evidence of the works compliance with legislative requirements, conditions of approval and standards and guidelines.

Council's responsibilities for waste management require greater control over the transportation and disposal of waste.

No consultation has been undertaken with Council regarding the Waste Management Plan (WMP). In developing the WMP the following minimum information needs to be adequately addressed:

- i. Nomination of the disposal site.
- ii. Record of the volume of each waste type being transport by the contractor.
- iii. Contractor proof of disposal at the nominated site including evidence of disposal, including tax invoice.
- iv. A procedure for how payment will be made to the Council.

10. SOCIO-ECONOMIC ASSESSMENT & CUMULATIVE IMPACTS

The additional projects identified in the table below will affect the socio-economic assessment and cumulative impacts of the Narramine to Narrabri development.

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Project and status	Nature of potential cumulative impacts
Narrabri South Solar Farm	<ul style="list-style-type: none"> Construction expected to take 12 months. Start period proposed to be third or fourth quarter of 2021. Majority of labour expected to be accessed from local and regional catchment.
Shenhua Watermark Coal Project	<ul style="list-style-type: none"> Construction expected to take 18 months. Start period proposed to be second quarter 2021. Specialist and non-specialist labour to be drawn from a wide catchment of which Narrabri Shire will be one.
Narrabri Underground Mine Stage 3 Extension	<ul style="list-style-type: none"> Construction expected to take over 2 years. Start period proposed to be second quarter 2022. There will be a potential draw on construction materials from the region.
Vickery Mine Project	<ul style="list-style-type: none"> Construction expected to take 2 years. Start period proposed to be third quarter 2022. There will be a potential draw on construction materials from the region.
Perdaman	<ul style="list-style-type: none"> Construction expected to take 4 years. Start period proposed to be for the first half of 2023. Majority of labour expected to be accessed from local and regional catchment. There will be a potential draw on construction materials from the region.
Northern NSW Inland Port	<ul style="list-style-type: none"> Initial construction expected to take approximately 2 years. Start period proposed for the third quarter of 2023. Majority of labour expected to be accessed from local and regional catchment. There will be a potential draw on construction materials from the region.

The Inland Rail organisation require everyone who works on their projects to attain certain tickets or undertake training to be able to work in the rail corridor. An example being the Rail Industry Safety Induction. To ensure local training organisations can deliver the upskilling required, an assessment of current capabilities should be undertaken. This will ensure that any local person who wants to benefit from the construction of Inland Rail will not be hindered by not being able to access basic and required training.

EXTRAORDINARY COUNCIL MEETING

27 JANUARY 2021

Inland Rail – Narramine to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

Within the Narramine to Narrabri EIS Project Summary of Findings additional key infrastructure is proposed, namely a Borrow Pit at Perimeter Road and:

1. A multi-function compound at Narrabri West
2. Temporary workforce accommodation within the Narrabri West multi-function compound

As discussed with all levels of Inland Rail representatives from the CEO (Richard Wankmuller) Duncan Mitchell (Project Director) and his team, Narrabri Shire is in the process of developing an employment precinct, the Northern NSW Inland Port (N2IP). A part of the strategic intent of Inland Rail is to assist communities that the Inland Rail infrastructure traverses to leave legacy items for current and future generations.

Therefore, it is recommended that the multi-function site compound proposed to be developed at Narrabri West be repositioned to Council's N2IP site. This is to include the following:

- Inland Rail's multi-function offices and amenities building
- Laydown areas
- Materials storage
- Fixed and mobile concrete batching facilities
- Fuel and hazardous materials storage
- Maintenance facilities
- Welding yard, etc

A further important legacy item to benefit the whole of the Narrabri community is that of access to water. It is proposed that strategic water bores be positioned to allow community organisations like the NSW Rural Fire Service to access water to fight forest fires. Further community benefits could be attained by providing water supply for residential consumption and to Council's N2IP site for commercial/industrial usage and economic growth.

In relation to the temporary workforce accommodation it is proposed that existing surplus rooms be taken up prior to the development of any new facility. If a new facility is required, then strong consideration should be given to the legacy aspect of that development. Therefore, a temporary workforce accommodation facility should be designed, situated and constructed to allow for the potential future use as an aged care facility, motel accommodation or units etc. Council requests that it be consulted to ensure the most appropriate design and location is established for this potential long-term, community benefit.

Apart from the direct cumulative impacts of labour and accommodation, stresses will be felt in a range of other areas, including but not limited to the following:

- Education and training
- Medical
- Policing
- Childcare
- Ambulance
- Private enterprise businesses

EXTRAORDINARY COUNCIL MEETING

27 JANUARY 2021

Inland Rail – Narramaine to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

- Miscellaneous government departments

In an effort to address these wide ranging and broad community issues, it is proposed that Inland Rail initiate and lead a whole of government task force to address these very real local government and community concerns.

Table on Page 51 of the Narramaine to Narrabri Project, Summary of Findings states that the benefits of Inland Rail are:

- Offering better access to and from regional markets
- Enabling regional economic development along the Inland Rail corridor

Council has consistently been a strong advocate for Inland Rail to the point that it is developing an industrial precinct, the Northern NSW Inland Port (N2IP). This development is situated within 4 kilometres of the Inland Rail corridor and will be used to attract businesses to the Shire that want access to Inland Rail to send their product to major cities like Brisbane and Melbourne and/or from there, export to the world. However, when the Inland Rail infrastructure grade separates over the Walgett Branch Line, it does so at a height that does not allow for double stacking from the N2IP site. Council believes that the raising of the Inland Rail line is not only a viable proposition but by doing it now will eliminate future retrofitting and associated infrastructure costs. Council has raised this repeatedly with the Inland Rail organisation as the height (being less than needed for double stacking) appears to be a design flaw that needs to be rectified to allow not only Narrabri Shire and Inland Rail but the broader north west region opportunity to maximise the development of this new rail infrastructure.

The three levels of government in Australia are committed to the N2IP development with the Federal and State governments allocating a combined total of \$24.61 million in infrastructure funding for the project.

The following is stated in the Federal Government's Statement of Expectations:

"The Government considers that the development of infrastructure that is complimentary to Inland Rail will be important to achieving the project benefits".

Council believes that to assist Inland Rail achieve its project benefits, it needs to access the inland Rail infrastructure in a northerly and southerly direction directly from the Walgett Branch Line. Narrabri Shire has been advocating for this complimentary infrastructure over an extended period of time and believes that both the Narrabri Shire community and Inland Rail will jointly benefit from this addition. By not constructing access to Inland Rail off the Walgett Branch Line means that rolling stock will be operated through the town of Narrabri. This is in stark contrast to the Commonwealth Governments Statement of Expectations which is to:

"improve sustainability and amenity for the community".

EXTRAORDINARY COUNCIL MEETING

27 JANUARY 2021

Inland Rail – Narrabri to Narrabri Project – Environmental Impact Statement Submissions – DRAFT

CONCLUSION

This review assumes that the aim of this submission is not to examine the complex scientific information in great detail or specific modelling methods involved in the project but rather to identify any potential issues that may directly or indirectly impact Council or Narrabri Shire or the surrounding community.

The Department is being relied upon to have more critical sections of the EIS peer reviewed by independent experts in relevant fields and for those peer reviews to be available to the community for review.

In concluding the review of the Environmental Impact Statement (EIS) for the Inland Rail – Narrabri to Narrabri Project, Narrabri Shire Council, it is noted that over twenty-seven (27) key concerns among many other observations have been identified that need to be addressed to ensure the proposal is successful.

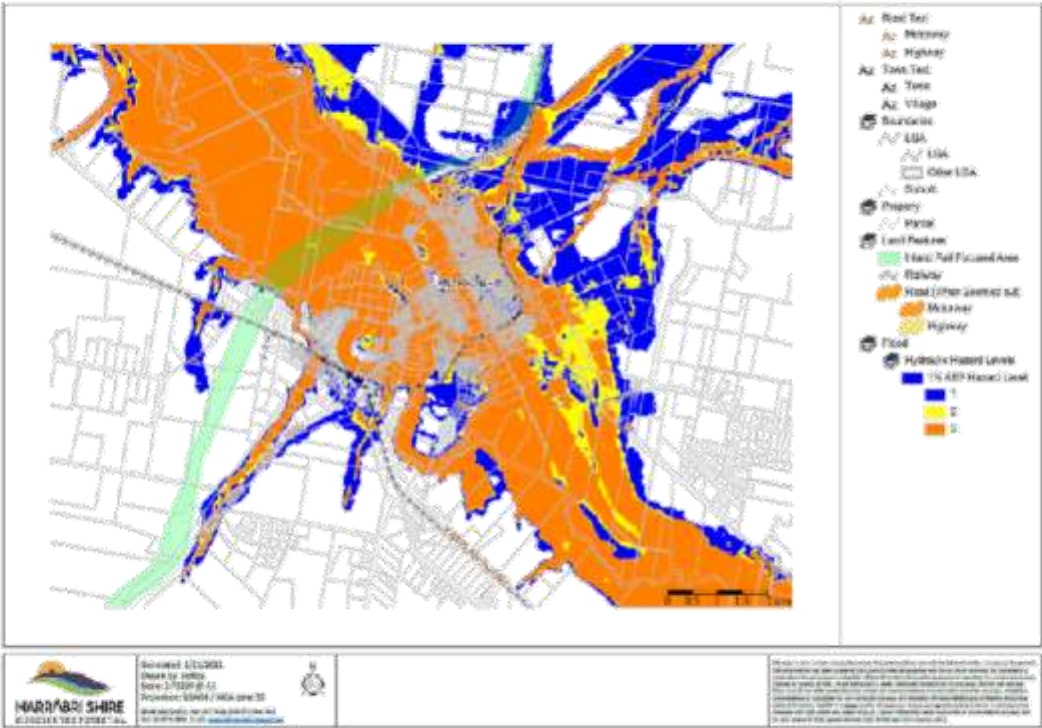
Of particular concern is that the proposed route does not provide an optimum outcome for Narrabri Shire. It is imperative that the serious omissions from the EIS be adequately addressed, namely the erroneous flood modelling and subsequent conclusions.

Further, to realise a benefit to Narrabri Shire and its surrounds, it is highly recommended that the proponents be required to demonstrate that:

- a) the rail operations will not negatively impact on the local community, by ensuring (1) all rail infrastructure is located outside the higher density commercial and residential areas; and (2) all construction impacts are mitigated and any residual damage to the road and service networks are repaired;
- b) the rail infrastructure does not increase potential flooding;
- c) the opportunity to interface efficiently and effectively with the Inland Rail, not only from the Narrabri Inland Port, is incorporated into the design at an early stage; and
- d) all construction infrastructure and services setup are located so that should Narrabri be able to benefit from their ongoing use, ownership is transferred to Council.

Inland Rail – Narramene to Narrabri Project – Environmental Impact Statement Submission

11. APPENDIX A – FLOOD MODELLING MAP



NARRABRI SHIRE COUNCIL

Page 22 of 22

13 OUR CIVIC LEADERSHIP



THEME 4: OUR CIVIC LEADERSHIP

STRATEGIC DIRECTION 4: COLLABORATIVE AND PROACTIVE LEADERSHIP

By 2027, we will proactively together to achieve our shared vision with strong strategic direction.

COMMUNITY ENGAGEMENT

Through extensive community engagement, the Narrabri Shire community identified several civic leadership priority areas to be actioned over the 2017 - 2018 financial year.

COMMUNITY SERVICES

Current services provided within the Narrabri Shire community include:

- Integrated strategic planning and reporting
- Community engagement and consultation
- Representation and governance
- Human resource management
- Customer services
- Information services
- Financial services
- Risk management
- Compliance and regulation

COMMUNITY OUTCOMES

In partnership with the community, government and non-government agencies, the Operational Plan will work towards achieving the following civic leadership strategic outcomes:

- Improved community engagement and decision-making processes
- Well established community, industry, government and non-government partnerships
- Well maintained core infrastructure and service provision that delivers public value
- Transparent and accountable planning and reporting
- Financial efficiency and sustainability

13.1 INVESTMENT REPORT - FEBRUARY 2022

Responsible Officer: Lindsay Mason, Director Corporate and Community Services

Author: Luke Meppem, Budget Coordinator

Attachments: Nil

DELIVERY PROGRAM ALIGNMENT**4 Leadership**

Objective 4.4 Our strategic goals will be achieved through transparent and accountable planning and reporting

Strategy 4.4.3 Report in a clear, concise manner that is easily understood

EXECUTIVE SUMMARY

Council is required to consider a report on its investments in accordance with clause 212 of the *Local Government (General) Regulation 2005*.

During the month:

- Three (3) investments matured, totalling \$4 million.
- Two (2) new investments were placed, totalling \$3 million.

Council's Responsible Accounting Officer has certified that Council's investments are in accordance with requirements.

RECOMMENDATION

1. That Council note the Investment Report for February 2022.

BACKGROUND

Council is required to consider a report on its investments in accordance with clause 212 of the *Local Government (General) Regulation 2005*.

CURRENT SITUATION

The following is a summary of investment movements for February 2022.

Investments maturing during the month:

- | | | | |
|------------|----------------|-------------|------------------|
| • 02/02/22 | NAB | \$2,000,000 | 210 days @ 0.28% |
| • 16/02/22 | BOQ | \$1,000,000 | 182 days @ 0.41% |
| • 23/02/22 | Macquarie Bank | \$1,000,000 | 176 days @ 0.40% |

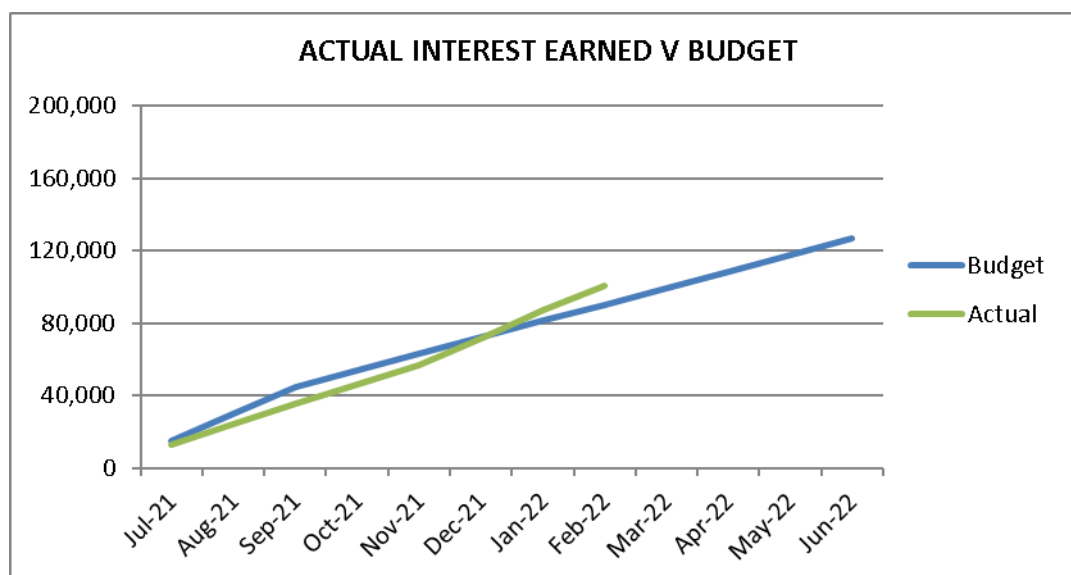
New Investments secured during the month:

- | | | | |
|------------|-----|-------------|------------------|
| • 16/02/22 | BOQ | \$1,000,000 | 273 days @ 0.70% |
| • 23/02/22 | NAB | \$2,000,000 | 273 days @ 0.72% |

	Market Value (\$)	Term (days)	Rate	Maturity Date	% of Portfolio
Short Term Deposits (<1 yr)	28,000,000.00				84.40%
Macquarie Bank	1,000,000.00	272	0.40%	09/03/22	3.01%
Judo Bank	1,000,000.00	272	0.70%	09/03/22	3.01%
Macquarie Bank	1,000,000.00	216	0.40%	06/04/22	3.01%
ME Bank	3,000,000.00	245	0.48%	13/04/22	9.04%
Macquarie Bank	1,000,000.00	244	0.40%	04/05/22	3.01%
Judo Bank	1,000,000.00	180	0.86%	18/05/22	3.01%
Judo Bank	2,000,000.00	182	0.92%	01/06/22	6.03%
AMP	1,000,000.00	329	0.75%	22/06/22	3.01%
AMP	2,000,000.00	240	0.90%	17/07/22	6.03%
AMP	1,000,000.00	336	0.45%	27/07/22	3.01%
BOQ	2,000,000.00	244	0.60%	03/08/22	6.03%
NAB	1,000,000.00	245	0.56%	17/08/22	3.01%
Macquarie Bank	1,000,000.00	365	0.40%	31/08/22	3.01%
BOQ	1,000,000.00	273	0.56%	07/09/22	3.01%
AMP	1,000,000.00	329	0.80%	14/09/22	3.01%
NAB	1,000,000.00	273	0.62%	12/10/22	3.01%
NAB	2,000,000.00	300	0.63%	19/10/22	6.03%
AMP	2,000,000.00	364	1.00%	02/11/22	6.03%
BOQ	1,000,000.00	273	0.70%	16/11/22	3.01%
NAB	2,000,000.00	273	0.72%	23/11/22	6.03%
Cash Deposits	5,176,663.12				15.60%
NAB At Call A/c	1,500,000.00	At Call	0.25%	n/a	4.52%
NAB Working A/c	3,676,663.12	At Call	0.00%	n/a	11.08%
Total Cash & Investments	33,176,663.12				100.00%

Movements within Bank account for the reporting period (\$)

Cash Book balance at 31 January 2022	441,576.35
Plus Receipts	5,758,017.43
Plus Investments Matured	4,000,000.00
Less Payments	-4,725,955.23
Less Investments Placed	-3,000,000.00
Cash Book balance at 28 February 2022	2,473,638.55
Unmatched statement items	92,670.48
Unmatched ledger book items	1,110,354.09
Reconciliation Balance as at 28 February 2022	3,676,663.12



Investment Rate Summary for February 2022

Average Interest Rate on Investments: 0.59%

Weighted Average Interest Rate on Investments 0.64%

Council's Benchmarks

Bank Bill Swap Rate (BBSW) 90-day index (28/02/2022)¹ 0.07%

Average 11am Cash Rate 0.10%

FINANCIAL IMPLICATIONS

Interest income for the month was \$13,789.04, bringing the financial year to date to \$100,699.56. This is \$10,366.23 ahead of budget (refer above graph) and is reflective of increasing interest rates.

The net movement in the total value of deposits held each month is determined by the immediate cashflow requirement to service creditors. Council's larger creditor payments for the month were in road projects and fleet purchases.

STATUTORY AND POLICY IMPLICATIONS

Clause 212 of the *Local Government (General) Regulation 2005* requires Council's Responsible Accounting Officer to provide a monthly report setting out the details of all money that the Council has invested under section 625 of the *Local Government Act 1993*.

It is certified that Council's investments have been made in accordance with:

- *Local Government Act 1993*.
- *Local Government (General) Regulation 2005*.
- Ministerial Investment Order dated 12 January 2011.
- Council's Investment Policy dated 15 August 2017.

¹ Source: www.asx.com.au

CONSULTATION

External Consultation

Nil.

Internal Consultation

- Responsible Accounting Officer.

13.2 PAYMENT OF SUPERANNUATION TO COUNCILLORS

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Jason Townsend, Manager Governance and Risk

Attachments: 1. Section 254B of Local Government Act 1993 [↓](#)

DELIVERY PROGRAM ALIGNMENT**4 Leadership**

Objective 4.4 Our strategic goals will be achieved through transparent and accountable planning and reporting

Strategy 4.4.2 Ensure effective and sound local governance practice

EXECUTIVE SUMMARY

In May 2021 the *Local Government Act* 1993 (NSW) was amended to permit councils to resolve to make superannuation contributions to Councillors on their Councillors' fees from 1 July 2022. This is optional rather than automatic, meaning that Council has to resolve to make such contributions in order to do so. In the absence of a resolution from Council, or a resolution from Council to not make such contributions, no superannuation will be paid to Councillors on their fees.

RECOMMENDATION

- 1. That Council considers whether to opt in to making superannuation contributions to Councillors on their Councillors' fees and resolves to either make such contributions or to not make such contributions.**

BACKGROUND

Councillors serving on NSW councils are entitled to receive remuneration in the form of Councillors and Mayoral Fees pursuant to Ch 9 Pt 2 Div 4 of the *Local Government Act* 1993 (NSW) (the Act). The rate of remuneration is set annually by the Local Government Remuneration Tribunal, which sets a minimum and maximum amount for Councillor/Mayoral fees. Council currently pays Councillors and the Mayor the maximum in the scale set by the Tribunal. For the 2021/2022 financial year, this is \$12,400 and \$26,060 per annum respectively.

As Councillors are not employees of Council, and do not receive a salary or wage as such, absent specific enabling legislation councils could not make superannuation contributions on Councillor or Mayoral fees.

CURRENT SITUATION

On 24 May 2021, section 254B was added to the Act. Section 254B enables Councils to make superannuation contributions on Councillors'/Mayor's fees from 1 July 2022. These contributions are to be at the same rate they would receive if they were an employee of Council. A full copy of s254B is attached.

This is an optional regime. If Council wishes to make superannuation contributions on Councillors'/Mayor's fees, it must pass a resolution to do so. While there is no obligation on Council

to pass a resolution to not make such superannuation contributions if it does not wish to, it would be good governance practice for them to do so to avoid any doubt into the future.

If, having passed a resolution to make superannuation contributions on Councillor's fees, a Councillor does not wish to receive such a contribution, or wishes to reduce it, they can elect to take that course by agreeing in writing to reduce or forego such a contribution.

Should a Councillor be minded to make superannuation contributions they may wish to move the following motion:

That Council make superannuation contributions on Councillor and Mayoral fees in accordance with section 254B of the Local Government Act 1993 (NSW) commencing 1 July 2022.

Should a Councillor be minded to not make superannuation contributions they may wish to move the following motion:

That Council will not make superannuation contributions on Councillor and Mayoral fees in accordance with section 254B of the Local Government Act 1993 (NSW).

FINANCIAL IMPLICATIONS

If Council resolves to pay superannuation to Councillors from 1 July 2022, the rate of payment will be the same as the Superannuation Guarantee Contribution percentage under the Commonwealth Government's Superannuation Legislation. For the 22/23FY the rate is 10.5%. This will gradually increase to 12% by 1 July 2025 under current legislation.

The Local Government Remuneration Tribunal has not yet determined Councillor Fee rates for the 2022/23 financial year. However, the payment of superannuation contributions to Councillors will likely cost approximately \$14,850 for the 2022-23 financial year. This has been calculated by applying an average of Councillor fee increases over the last five years (2%) to the current rate and then applying the superannuation guarantee percentage to that.

If the Remuneration Tribunal determines a different increase, or no increase, this estimate will change. The largest increase in the last five years was 2.5% and the lowest was 0%. If the increase is in line with the former, it will likely cost Council approximately \$14,925. If there is no increase, it will likely cost approximately \$14,559.

STATUTORY AND POLICY IMPLICATIONS

Pursuant to Section 254B of the *Local Government Act 1993* (NSW) as per the attached.

Payment of Expenses and Provision of Facilities to Councillors (Narrabri Shire Council).

CONSULTATION

External Consultation

Nil.

Internal Consultation

Nil.



Local Government Act 1993 No 30

Current version for 1 January 2022 to date (accessed 9 March 2022 at 17:04)

[Chapter 9](#) > [Part 2](#) > [Division 5](#) > [Section 254B](#)

254B Payment for superannuation contributions for councillors

- (1) A council may make a payment (a *superannuation contribution payment*) as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.
- (2) The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.
- (3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.
- (4) A council is not permitted to make a superannuation contribution payment—
 - (a) unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors, or
 - (b) if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates, or
 - (c) to the extent the councillor has agreed in writing to forgo or reduce the payment.
- (5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.
- (6) A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.
- (7) A superannuation contribution payment does not constitute salary for the purposes of any Act.
- (8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.
- (9) In this section—

Commonwealth superannuation legislation means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

superannuation account means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth superannuation legislation applies.

13.3 NOMINATION OF NATIVE TITLE MANAGER

Responsible Officer: Lindsay Mason, Director Corporate and Community Services

Author: Nathan Camac, Manager Property Services

Attachments: Nil

DELIVERY PROGRAM ALIGNMENT**4 Leadership**

Objective 4.4 Our strategic goals will be achieved through transparent and accountable planning and reporting

Strategy 4.4.2 Ensure effective and sound local governance practice

EXECUTIVE SUMMARY

Council is required to give notice to the Minister for Lands and Forestry of the name and contact details of Council's nominated Native Title Manager. The Property Officer has been suitably trained to be the native title manager.

RECOMMENDATION

- 1. That Council nominate the Property Officer, Nicole Gordon, as its Native Title Manager;**
- 2. That Council give notice to the Minister for Lands and Forestry of contact details of Council's Property Officer, Nicole Gordon, as its Native Title Manager as required under Section 8.8 of the Crown Land Management Act 2016.**

BACKGROUND

The *Crown Land Management Act 2016* (CLM 2106) commenced from 1 July 2018. The practice of managing Crown Lands in the shire will be changing significantly to comply with the requirements under the CLM 2016. One of the changes relates to a need for each Council to nominate its qualified Native Title Manager. The Property Officer is considered the most suitable person to be engaged/appointed as Council's Native Title Manager. Once Council has appointed its Native Title Manager, a notice can be given to the Minister accordingly.

CURRENT SITUATION

To be qualified as a Native Title Manager, the person must attend a training session jointly provided by the Crown Solicitors Office and the Department of Industry (Crown Lands Office). Council's Property Officer, Nicole Gordon attended this training on 18 May 2021.

FINANCIAL IMPLICATIONS

Nil.

STATUTORY AND POLICY IMPLICATIONS

Section 8.8 of the Crown Land Management Act 2016 (CLM 2106)

Section 377(1) of the Local Government Act 1993

CONSULTATION

External Consultation

- Crown Lands Office.
- Local Government Property Professionals Group.

Internal Consultation

Nil.

13.4 SPECIAL ACTIVATION PRECINCT (SAP) COMMITTEE

Responsible Officer: Andrew Brown, Director Planning, Strategy and People

Author: Donna Ausling, Manager Strategic Planning

Attachments: 1. Draft SAP Standing Committee Terms of Reference [↓](#)

DELIVERY PROGRAM ALIGNMENT**4 Leadership**

Objective 4.1 We will proactively engage and partner with the community and government to achieve our strategic goals

Strategy 4.1.3 Develop and build strong, productive partnerships with State and Federal Governments

EXECUTIVE SUMMARY

Special Activation Precincts are a NSW Government project delivered by the Department of Regional NSW, Department of Planning and Environment (DPE) and Regional Growth NSW Development Corporation.

The Narrabri Special Activation Precinct (the Precinct) will attract employment and investment opportunities to the region, capitalising on Narrabri's strategic location to Inland Rail, the Narrabri West Walgett Line and the Narrabri Northern NSW Inland Port.

RECOMMENDATION

- 1. That Council not establish a Special Activation Precinct Standing Committee.**
- 2. That Council formally correspond with the NSW Government and request the provision of bi-monthly briefing sessions in relation to Narrabri Special Activation Precinct (SAP) matters.**

BACKGROUND

The Narrabri Special Activation Precinct (SAP) was announced by the NSW Government in November 2020. The Precinct will attract employment and investment opportunities to the region, capitalising on Narrabri's strategic location to Inland Rail, the Narrabri West Walgett Line and the Narrabri Northern NSW Inland Port. The Precinct will also identify housing, infrastructure, community and social needs required for the town to support additional growth.

The Precinct aims to be a thriving commercial hub that will target energy intensive manufacturing, value-add agricultural production, recycling, and freight and logistics which also leverages off Inland Rail. The investigation area of the Precinct includes the Narrabri Northern NSW Inland Port, which is located 6 km from the town centre on Yarrie Lake Road.

Special Activation Precincts are a NSW Government project delivered by the Department of Regional NSW, Department of Planning and Environment (DPE) and Regional Growth NSW Development

Corporation. The Narrabri SAP is the 6th of its kind announced in regional NSW, and joins Snowy Mountains, Williamtown, Parkes, Wagga Wagga and Moree.

In the preparation of this Report a SWOT and PESTLE analysis framework has been utilised to guide Council's decision-making in relation to the formation, or otherwise, of a SAP Committee. SWOT and PESTLE analyses are useful tools for decision-makers when evaluating the advantages and disadvantages of a project or initiative. The analysis can be applied to identify factors that may affect overall success.

CURRENT SITUATION

At Council's Extraordinary Meeting held on 15 February 2022 Council resolved under Minute No. 012/2022:

That a report be brought before 22 March 2022 Ordinary Meeting regarding the establishment of a Committee of Council for the Special Activation Precinct (SAP) on the options and draft terms of reference.

The SWOT analysis examines four (4) areas in the internal organisational (Council) environment in relation to a particular project or initiative:

- Strengths
- Weaknesses
- Opportunities
- Threats

The PESTLE analysis is used to evaluate the outside factors that affect a particular project or initiative:

- Political
- Economic
- Social
- Technological
- Legal
- Environmental

A copy of the corresponding SWOT and PESTLE analysis results in relation to the establishment of a SAP Committee are detailed respectively in **Tables 1** and **2** overleaf.

SWOT Analysis	
Strengths	<ul style="list-style-type: none"> • Council Committees are a common vehicle used within the local government framework to engage with key identified stakeholders.
Weaknesses	<ul style="list-style-type: none"> • Council is only a stakeholder in the SAP program and is not the project lead. • No SAP Committees (or equivalent) have been established at Narrabri Shire Council historically nor other SAP Council areas. • Limited ability to support the administrative functions of the Committee given current resource constraints, particularly within the strategic planning and governance teams.
Opportunities	<ul style="list-style-type: none"> • The Committee is a potential forum to share knowledge and community feedback.

Threats	<ul style="list-style-type: none"> • Creation of a high-risk landscape in terms of management of confidential information and commensurate probity considerations. • Inability of Council staff to successfully manage probity and confidentiality elements which may compromise the overall success of the project and/or expose Council to legal proceedings.
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Table 1: SWOT analysis results

PESTLE Analysis	
Political	<ul style="list-style-type: none"> • Lack of underpinning support for the formation of a SAP Committee by government. • Perception as to the SAP Committee being a politically-driven forum which aims to unreasonably guide and influence SAP outcomes. • Concerns relating to the inappropriate release of information and inconsistent communications to the community in an unmanaged manner raising overarching project-delivery risks. • Raising of unrealistic community expectations in relation to Council's role and function in the overall policy and decision-making process.
Economic	<ul style="list-style-type: none"> • Perception of potential future SAP investors as an additional layer of project bureaucracy. • Potential loss of SAP project funding if Council is not perceived by community and government as a project partner.
Social	<ul style="list-style-type: none"> • Creation of further community confusion surrounding spheres of influence and project control in addition to overarching project delivery responsibility.
Technological	<ul style="list-style-type: none"> • Council currently has no technological content experts on staff and there is an industry-wide Geographic Information System (GIS) practitioner shortage.
Legal	<ul style="list-style-type: none"> • Potential exposure of Council to legal proceedings if conflicts and confidentiality elements are not well-managed by Committee participants and Council's technical staff.
Environmental	<ul style="list-style-type: none"> • Council has limited control and influence over the making of corresponding environmental legislation including, for example, the <i>State Environmental Planning Policy (Precincts—Regional) 2021</i>.

Table 2 – PESTLE Analysis

On the basis of the results of the above SWOT and PESTLE analysis, the formation of a Committee is not recommended in this instance. It is acknowledged, however, that there is a strong desire by Council's elected representatives to both better understand and actively participate in the SAP process in the interest and ultimate betterment of their community. On this basis, it is recommended that the Council formally correspond with the NSW Government and request the provision of bi-monthly briefing sessions in relation to Narrabri SAP matters.

In line with Council's adopted resolution, draft Terms of Reference (TOR) have been prepared for further review and consideration. The draft TOR are **enclosed**.

FINANCIAL IMPLICATIONS

The creation of a Council-led SAP committee would require a specific budgetary allocation, as the initiative is currently unfunded within Council's adopted budget. Given the probity considerations

detailed in the body of this Report, an external Committee facilitator may be required, with an anticipated cost in the order of \$30,000 per annum.

STATUTORY AND POLICY IMPLICATIONS

Detailed in the body of the Report and enclosed draft Terms of Reference.

CONSULTATION**External Consultation**

Nil.

Internal Consultation

- Executive Management.
- Senior Management.
- Manager Governance and Risk.



TERMS OF REFERENCE:

NARRABRI SPECIAL ACTIVATION PRECINCT

STANDING COMMITTEE

PURPOSE

Narrabri Shire Council has established a Narrabri Special Activation Precinct Standing Committee ("Standing Committee") under clause 20.2 of the Code of Meeting Practice. The purpose of this document is to set out the role, responsibilities, structure, and procedure of the Standing Committee.

FUNCTION

The Standing Committee's purpose is to consider and make recommendations on Council-endorsed submissions on Special Activation Precinct allied matters.

GENERAL

1. Membership & Composition

- 1.1. The Standing Committee will consist of all councillors, in accordance with clauses 20.2 and 20.3 of the Code of Meeting Practice.

2. Member Responsibilities

The Chairperson is expected to:

- 2.1. Convene and conduct the meeting in accordance with these Terms of Reference and the Code of Meeting Practice.

Committee Members are expected to:

- 2.2. Understand the relevant legislative and regulatory requirements appropriate to Council;
- 2.3. Contribute the time needed to study and understand the Standing Committee business papers;
- 2.4. Apply good analytical skills, objectivity, and judgment; and
- 2.5. Express frank opinions, ask relevant questions, and pursue independent lines of enquiry, with a view to trying to achieve consensus.





3. Recommendations to Council

- 3.1. The Standing Committee may make recommendations to Council on all relevant business presented before it in the form of minutes.

PROTOCOL

4. General

- 4.1. Except where modified in these terms of reference, the Standing Committee will operate in accordance with Part 20 of the Code of Meeting Practice.

5. Regularity of Meetings

- 5.1. Meetings will be held as determined by the Council.

6. Venue

- 6.1. The venue shall be determined by the Mayor.

7. Procedure

- 7.1. The procedure at Meetings will be in accordance with Council's Code of Meeting Practice.

8. Quorum

- 8.1. The Quorum for a meeting of the Standing Committee is to be in accordance with clause 20.4 of the Code of Meeting Practice.

9. Notice, Agenda, Business Papers & Minutes

- 9.1. Notices of meeting, agenda, and business papers will be prepared and given in accordance with clause 20.6 of the Code of Meeting Practice.
- 9.2. Any recommendations that require a Council Resolution will be reported to Council for consideration in accordance with clause 3.1 above.
- 9.3. Minutes will be prepared, confirmed and published in accordance with clauses 20.23-20.28 of the Code of Meeting Practice.



10. Chairperson & Deputy Chairperson

- 10.1. The Mayor shall be Chairperson of the Standing Committee.
- 10.2. The Deputy Mayor shall be Deputy Chairperson of the Standing Committee.
- 10.3. In the event of absence of a Chairperson or Deputy Chairperson, a member of the Committee shall act as Acting Chairperson.
- 10.4. If an Acting Chairperson is required, the election of the Acting Chairperson shall be the first item of business of the first meeting that an Acting Chairperson is required.

11. Review

- 11.1. These Terms of Reference will be reviewed as a minimum in the first twelve months after an ordinary election of Council.
- 11.2. Council must adopt any changes to the Terms of Reference.

References

- *Local Government Act (NSW) 1993.*
- *Narrabri Shire Council Code of Meeting Practice.*

History

Minute Number	Meeting Date	Description of Change
	22 March 2022	1 st Draft

13.5 COUNCIL COMMITTEES

Responsible Officer: Stewart Todd, General Manager

Author: Stewart Todd, General Manager

Attachments:

1. Draft Finance and Governance Standing Committee Terms of Reference [↓](#)
2. Draft Planning and Development Standing Committee Terms of Reference [↓](#)
3. Draft Public Infrastructure and Community Facilities Standing Committee Terms of Reference [↓](#)
4. Draft Roads and Fleet Standing Committee Terms of Reference [↓](#)

DELIVERY PROGRAM ALIGNMENT

4 Leadership

Objective 4.4 Our strategic goals will be achieved through transparent and accountable planning and reporting

Strategy 4.4.2 Ensure effective and sound local governance practice

EXECUTIVE SUMMARY

Council abolished its previously used standing committee structure at the commencement of the 2016 Council term. The standing committee structure was abolished as it was ultimately gazumped by the introduction of the Integrated Planning and Reporting (IP&R) legislation that is mandatory for NSW councils to adhere and implement.

Council's current meeting governance structure consists of a monthly Councillor Briefing and a monthly Ordinary Council Meeting, contrary to what has been claimed, the governance structure satisfies the requirements set out in the *Local Government Act 1993* section 8A(2) and others. Therefore, the re-introduction of standing committees provides no additional transparency with regards to the Council decision making process, noting specifically that a decision cannot be made at a Councillor Briefing only at a Council Meeting.

Due to the legislative changes mandating IP&R, councils have transitioned away from reporting operational progress through various committees to Council and now report on progress universally against the Operational Plan (quarterly) and the Delivery Program (six-monthly).

It is clear from the IP&R legislation and supporting guidelines that Council's thought and consideration should be maintained at the strategy and policy level. The implementation of strategies, plans and programs that have considered available Council resources, Council's asset base and financially feasible service standards.

The IP&R framework was introduced to enable councils to maintain a strategy and policy focus, whilst empowering the Council staff to deliver under the strategies and plans adopted by Council.

The current allocation of staff resources to prepare for and deliver a single monthly Ordinary Council Meeting will be increased four-fold, especially at the management level of Council.

Further, the workload for Councillors would similarly increase with an additional four business papers to pre-read and digest prior to their attendance to any standing committees.

Consideration should also be given to the opportunity cost of the re-introduction of standing committees. Standing committees will affect the ability of management and supervisory staff to deliver the Council adopted Operational Plan actions as well as the adopted Capital Works program.

Council has a great track record of achievement and delivery in the previous term of Council under the current modern meeting governance structure; which consists of monthly Councillor Briefings and monthly Council Meetings.

RECOMMENDATION

1. **That Council maintain the current meeting governance structure for the next 6 months, with the General Manager to provide a further report to Council; after having consulted all Councillors and management staff on their experience with the current meeting governance structure, to the October 2022 Ordinary Council Meeting.**

BACKGROUND

At the Extra-Ordinary Meeting held 15 February 2022, Council resolved the following:

9.1 NOTICE OF MOTION - REINSTATE COMMITTEES OF COUNCIL

MINUTE 013/2022

Moved: Cr John Clements Seconded: Cr Greg Lamont

That the General Manager provide a report to the Ordinary meeting on 22nd March 2022 to re-establish the Committees of Council decision making process with recommendations on the terms of reference options for these committees with a view to endorsing the terms of reference at the March Ordinary Meeting.

CARRIED

Council abolished its previously used Standing Committee structure at the commencement of the 2016 Council term. Prior to this time the Council was utilising a standing committee structure of four (4) standing committees.

1. Finance and Governance
2. Planning and Development
3. Public Infrastructure and Community Facilities
4. Roads and Fleet

The standing committee structure was abolished as it was ultimately gazumped by the introduction of the Integrated Planning and Reporting (IP&R) legislation that is mandatory for NSW councils to adhere to and implement.

Having no choice but to comply with the IP&R legislation and continuing with the standing committee structure would have created an immense duplication of effort by Council staff and absorbed a large amount of Council resources to maintain.

Many other NSW councils also recognised this and the impact on council staff and resources, which is why current governance structures across the State see a structure the same or very similar to the structure utilised by Narrabri Shire Council since 2016.

Standing committees of the past are now the exception to council governance structures and are broadly considered an outdated way to effectively manage Council affairs.

CURRENT SITUATION

Council Meeting Governance Structure

Council's current meeting governance structure is as follows:

1. *Councillor Briefing*

Scheduled on the 1st Tuesday of the month.

These monthly briefings are held in accordance with the Council's Code of Meeting Practice, specifically clause 3.31 – 3.35.

Under the Code of Meeting Practice and has been the past practice of Council, **Councillors cannot make decisions at a Councillor Briefing**. Decisions can only be made at Council Meetings.

2. *Ordinary Council Meeting*

Scheduled on the 4th Tuesday of the month (typically).

The ordinary meeting schedule is resolved annually by Council in line with legislative requirements.

These monthly Ordinary Council Meetings are held in accordance with the Council's Code of Meeting Practice. **Council decisions are made in open (public) session of a Council Meeting**.

Where a matter is considered in confidential session, under the available legislative provisions, **after the confidential session any decision made on the confidential matter is made public**. There are an extremely limited number of circumstances where Council can temporarily withhold a confidential Council decision, but the decision after the matter is finalised then becomes public; such as:

- Matters under commercial negotiation, for example a VPA or property sale or property purchase.

Contrary to what has been claimed, this briefing and meeting governance structure satisfies the requirements set out in the *Local Government Act 1993* section 8A(2) and others.

Therefore, the re-introduction of standing committees provides no additional transparency to Councillors or the community with regards to the Council decision making process, noting specifically that a decision cannot be made at a Councillor Briefing. This may now be a point of clarification for some.

Council staff have recently been made aware that this exact briefing and meeting governance structure is being copied and implemented in a neighbouring regional council.

It should also be noted that standing committees are now the exception, not the norm - due to numerous changes in legislation over the previous decade that governs how councils in NSW operate.

Integrated Planning and Reporting

The Integrated Planning and Reporting (IP&R) framework changed the way councils in NSW strategised, documented and reported on their adopted plans. The Framework is mandatory for NSW councils to implement. Narrabri Shire Council (alike many other NSW councils) have refined the way these plans are developed, implemented and reported on.

Pursuant to the *Local Government Act 1993* and the *Local Government (General) Regulation 2021* all NSW councils are required to develop the following documents that form the IP&R Framework:

- a Community Strategic Plan (CSP): the community's plan that outlines their social, environmental, economic and civic goals and objectives for a ten-year plus time frame;
- a Resourcing Strategy: shows how Council will resource its strategic priorities that have been identified through the CSP;
- a Delivery Program: the Actions that Council will aim to deliver over the next four years in order to achieve the goals established in the CSP;
- an Operational Plan: a one year snapshot derived from the Delivery Program and other relevant Plans and Strategies, outlining what Council intends to deliver in the incoming financial year;
- a Quarterly Operational Plan Report: a report to Council outlining the progress made against the Actions established in the corresponding Operational Plan;
- a Six-Monthly Delivery Program Report: a report to Council outlining the impact Council's operational actions have had on the broader social, environmental, economic and civic wellbeing of the Shire (and directly links to the CSP);
- an Annual Report: summarising what was achieved and not achieved by Council during the financial year (and includes additional legislative requirements).

Due to the legislative changes mandating IP&R, councils have transitioned away from reporting operational progress through various reports to Council and now report on progress universally against the Operational Plan (quarterly) and the Delivery Program (six-monthly). The logic being, all councils cannot conduct activities and capital works programs that have not already been included in their Operational Plan.

NSW Office of Local Government implemented the IP&R Framework to ensure there was a universal reporting mechanism to both Councillors and the public across the state, improving transparency and accountability.

What should not be lost is the requirement to establish and adopt well consulted, well constructed and well executed plans under the IP&R legislation as well as the mandated reporting regime on same.

It is clear from the IP&R legislation and supporting guidelines that Council's thought and consideration should be maintained at the strategy and policy level; for example, on the management of asset classes and not single assets.

The implementation of maintenance programs that have considered available Council resources, Council's asset base and financially feasible service standards should be the primary focus of Council, for example:

1. How the entire road network is managed effectively and efficiently and not singling out a single road for maintenance or reconstruction.
2. How the entire portfolio of open spaces is managed effectively and efficiently and not hand picking a single park or open space for additional increases in its mowing schedule; similarly,
3. How the entire portfolio of Council's fleet is managed effectively and efficiently and not singling out a single plant item for replacement or disposal.

The IP&R framework was introduced to enable councils to maintain a strategy and policy focus, whilst empowering the Council staff to deliver under the strategies and plans adopted by Council. This is supported by a legislative reporting framework to keep both the Council and community informed of Council's progress in meeting its Delivery Program and annual Operational Plan.

Re-introducing a governance structure that is some 15 years old and contrary to and duplication of IP&R requirements is not advised or recommended.

FINANCIAL IMPLICATIONS

If the Council so choose to re-introduce standing committees, there will be a significant increase in the Council resources required to implement and maintain a standing committee structure.

In essence, the current allocation of resources to prepare for and deliver a single monthly Ordinary Council Meeting will be increased four-fold, especially at the management level of Council.

It would be remiss not to also mention that the workload for Councillors would similarly increase with an additional four business papers to pre-read and digest prior to their attendance to the standing committees.

With the limited time provided to prepare this report a calculation of actual financial impact is unable to be provided.

However, in addition to a traditional financial cost to Council, consideration should also be given to the opportunity cost of the re-introduction of standing committees. Standing committees will affect the ability of management staff to deliver the adopted Operational Plan actions as well as the adopted Capital Works program.

Council has a great track record of achievement and delivery in the previous term of Council under the current modern meeting governance structure; consisting of monthly Councillor Briefings and Council Meetings – this structure is detailed earlier in the report.

STATUTORY AND POLICY IMPLICATIONS

Nonetheless, should Council decide to re-introduce standing committees, suggested terms of reference are attached to this report.

CONSULTATION

External Consultation

Nil.

Internal Consultation

- Planning, Strategy and People Directorate.
- Corporate and Community Services Directorate.
- Governance and Risk section.



TERMS OF REFERENCE:

FINANCE AND GOVERNANCE STANDING COMMITTEE

PURPOSE

Narrabri Shire Council has established a Finance and Governance Standing Committee ("Standing Committee") under clause 20.2 of the Code of Meeting Practice. The purpose of this document is to set out the role, responsibilities, structure, and procedure of the Standing Committee.

FUNCTION

The Standing Committee's purpose is to consider strategy and policy matters pertaining to the finance and governance functions of Council and make recommendations to Council on same.

GENERAL

1. Membership & Composition

- 1.1. The Standing Committee will consist of all councillors, in accordance with clauses 20.2 and 20.3 of the Code of Meeting Practice.

2. Member Responsibilities

The Chairperson is expected to:

- 2.1. Convene and conduct the meeting in accordance with these Terms of Reference and the Code of Meeting Practice.

Committee Members are expected to:

- 2.2. Understand the relevant legislative and regulatory requirements appropriate to Council;
- 2.3. Contribute the time needed to study and understand the Standing Committee business papers;
- 2.4. Apply good analytical skills, objectivity, and judgment; and
- 2.5. Express frank opinions, ask relevant questions, and pursue independent lines of enquiry, with a view to trying to achieve consensus.





3. Recommendations to Council

- 3.1. The Standing Committee may make recommendations to Council on all relevant business presented before it in the form of minutes.

PROTOCOL

4. General

- 4.1. Except where modified in these terms of reference, the Standing Committee will operate in accordance with Part 20 of the Code of Meeting Practice.

5. Regularity of Meetings

- 5.1. Meetings will be held as determined by the Council.

6. Venue

- 6.1. The venue shall be determined by the Mayor.

7. Procedure

- 7.1. The procedure at Meetings will be in accordance with Council's Code of Meeting Practice.

8. Quorum

- 8.1. The Quorum for a meeting of the Standing Committee is to be in accordance with clause 20.4 of the Code of Meeting Practice.

9. Notice, Agenda, Business Papers & Minutes

- 9.1. Notices of meeting, agenda, and business papers will be prepared and given in accordance with clause 20.6 of the Code of Meeting Practice.
- 9.2. Any recommendations that require a Council Resolution will be reported to Council for consideration in accordance with clause 3.1 above.
- 9.3. Minutes will be prepared, confirmed and published in accordance with clauses 20.23-20.28 of the Code of Meeting Practice.



10. Chairperson & Deputy Chairperson

- 10.1. The Mayor shall be Chairperson of the Standing Committee.
- 10.2. The Deputy Mayor shall be Deputy Chairperson of the Standing Committee.
- 10.3. In the event of absence of a Chairperson or Deputy Chairperson, a member of the Committee shall act as Acting Chairperson.
- 10.4. If an Acting Chairperson is required, the election of the Acting Chairperson shall be the first item of business of the first meeting that an Acting Chairperson is required.

11. Review

- 11.1. These Terms of Reference will be reviewed as a minimum in the first twelve months after an ordinary election of Council.
- 11.2. Council must adopt any changes to the Terms of Reference.

References

- *Local Government Act (NSW) 1993.*
- *Narrabri Shire Council Code of Meeting Practice.*

History

Minute Number	Meeting Date	Description of Change
	22 March 2022	1 st Draft



TERMS OF REFERENCE:

PLANNING AND DEVELOPMENT STANDING COMMITTEE

PURPOSE

Narrabri Shire Council has established a Planning and Development Standing Committee ("Standing Committee") under clause 20.2 of the Code of Meeting Practice. The purpose of this document is to set out the role, responsibilities, structure, and procedure of the Standing Committee.

FUNCTION

The Standing Committee's purpose is to consider strategy and policy matters pertaining to the Planning and Development functions of Council and make recommendations to Council on same.

GENERAL

1. Membership & Composition

- 1.1. The Standing Committee will consist of all councillors, in accordance with clauses 20.2 and 20.3 of the Code of Meeting Practice.

2. Member Responsibilities

The Chairperson is expected to:

- 2.1. Convene and conduct the meeting in accordance with these Terms of Reference and the Code of Meeting Practice.

Committee Members are expected to:

- 2.2. Understand the relevant legislative and regulatory requirements appropriate to Council;
- 2.3. Contribute the time needed to study and understand the Standing Committee business papers;
- 2.4. Apply good analytical skills, objectivity, and judgment; and
- 2.5. Express frank opinions, ask relevant questions, and pursue independent lines of enquiry, with a view to trying to achieve consensus.





3. Recommendations to Council

- 3.1. The Standing Committee may make recommendations to Council on all relevant business presented before it in the form of minutes.

PROTOCOL

4. General

- 4.1. Except where modified in these terms of reference, the Standing Committee will operate in accordance with Part 20 of the Code of Meeting Practice.

5. Regularity of Meetings

- 5.1. Meetings will be held as determined by the Council.

6. Venue

- 6.1. The venue shall be determined by the Mayor.

7. Procedure

- 7.1. The procedure at Meetings will be in accordance with Council's Code of Meeting Practice.

8. Quorum

- 8.1. The Quorum for a meeting of the Standing Committee is to be in accordance with clause 20.4 of the Code of Meeting Practice.

9. Notice, Agenda, Business Papers & Minutes

- 9.1. Notices of meeting, agenda, and business papers will be prepared and given in accordance with clause 20.6 of the Code of Meeting Practice.
- 9.2. Any recommendations that require a Council Resolution will be reported to Council for consideration in accordance with clause 3.1 above.
- 9.3. Minutes will be prepared, confirmed and published in accordance with clauses 20.23-20.28 of the Code of Meeting Practice.



10. Chairperson & Deputy Chairperson

- 10.1. The Mayor shall be Chairperson of the Standing Committee.
- 10.2. The Deputy Mayor shall be Deputy Chairperson of the Standing Committee.
- 10.3. In the event of absence of a Chairperson or Deputy Chairperson, a member of the Committee shall act as Acting Chairperson.
- 10.4. If an Acting Chairperson is required, the election of the Acting Chairperson shall be the first item of business of the first meeting that an Acting Chairperson is required.

11. Review

- 11.1. These Terms of Reference will be reviewed as a minimum in the first twelve months after an ordinary election of Council.
- 11.2. Council must adopt any changes to the Terms of Reference.

References

- *Local Government Act (NSW) 1993.*
- *Narrabri Shire Council Code of Meeting Practice.*

History

Minute Number	Meeting Date	Description of Change
	22 March 2022	1 st Draft



TERMS OF REFERENCE:

PUBLIC INFRASTRUCTURE AND COMMUNITY FACILITIES

STANDING COMMITTEE

PURPOSE

Narrabri Shire Council has established a Public Infrastructure and Community Facilities Standing Committee ("Standing Committee") under clause 20.2 of the Code of Meeting Practice. The purpose of this document is to set out the role, responsibilities, structure, and procedure of the Standing Committee.

FUNCTION

The Standing Committee's purpose is to consider strategy and policy matters pertaining to the Public Infrastructure and Community Facilities functions of Council and make recommendations to Council on same.

GENERAL

1. Membership & Composition

- 1.1. The Standing Committee will consist of all councillors, in accordance with clauses 20.2 and 20.3 of the Code of Meeting Practice.

2. Member Responsibilities

The Chairperson is expected to:

- 2.1. Convene and conduct the meeting in accordance with these Terms of Reference and the Code of Meeting Practice.

Committee Members are expected to:

- 2.2. Understand the relevant legislative and regulatory requirements appropriate to Council;
- 2.3. Contribute the time needed to study and understand the Standing Committee business papers;
- 2.4. Apply good analytical skills, objectivity, and judgment; and
- 2.5. Express frank opinions, ask relevant questions, and pursue independent lines of enquiry, with a view to trying to achieve consensus.





3. Recommendations to Council

- 3.1. The Standing Committee may make recommendations to Council on all relevant business presented before it in the form of minutes.

PROTOCOL

4. General

- 4.1. Except where modified in these terms of reference, the Standing Committee will operate in accordance with Part 20 of the Code of Meeting Practice.

5. Regularity of Meetings

- 5.1. Meetings will be held as determined by the Council.

6. Venue

- 6.1. The venue shall be determined by the Mayor.

7. Procedure

- 7.1. The procedure at Meetings will be in accordance with Council's Code of Meeting Practice.

8. Quorum

- 8.1. The Quorum for a meeting of the Standing Committee is to be in accordance with clause 20.4 of the Code of Meeting Practice.

9. Notice, Agenda, Business Papers & Minutes

- 9.1. Notices of meeting, agenda, and business papers will be prepared and given in accordance with clause 20.6 of the Code of Meeting Practice.
- 9.2. Any recommendations that require a Council Resolution will be reported to Council for consideration in accordance with clause 3.1 above.
- 9.3. Minutes will be prepared, confirmed and published in accordance with clauses 20.23-20.28 of the Code of Meeting Practice.



10. Chairperson & Deputy Chairperson

- 10.1. The Mayor shall be Chairperson of the Standing Committee.
- 10.2. The Deputy Mayor shall be Deputy Chairperson of the Standing Committee.
- 10.3. In the event of absence of a Chairperson or Deputy Chairperson, a member of the Committee shall act as Acting Chairperson.
- 10.4. If an Acting Chairperson is required, the election of the Acting Chairperson shall be the first item of business of the first meeting that an Acting Chairperson is required.

11. Review

- 11.1. These Terms of Reference will be reviewed as a minimum in the first twelve months after an ordinary election of Council.
- 11.2. Council must adopt any changes to the Terms of Reference.

References

- *Local Government Act (NSW) 1993.*
- *Narrabri Shire Council Code of Meeting Practice.*

History

Minute Number	Meeting Date	Description of Change
	22 March 2022	1 st Draft



TERMS OF REFERENCE:

ROADS AND FLEET STANDING COMMITTEE

PURPOSE

Narrabri Shire Council has established a Roads and Fleet Standing Committee ("Standing Committee") under clause 20.2 of the Code of Meeting Practice. The purpose of this document is to set out the role, responsibilities, structure, and procedure of the Standing Committee.

FUNCTION

The Standing Committee's purpose is to consider strategy and policy matters pertaining to the Roads and Fleet functions of Council and make recommendations to Council on same.

GENERAL

1. Membership & Composition

- 1.1. The Standing Committee will consist of all councillors, in accordance with clauses 20.2 and 20.3 of the Code of Meeting Practice.

2. Member Responsibilities

The Chairperson is expected to:

- 2.1. Convene and conduct the meeting in accordance with these Terms of Reference and the Code of Meeting Practice.

Committee Members are expected to:

- 2.2. Understand the relevant legislative and regulatory requirements appropriate to Council;
- 2.3. Contribute the time needed to study and understand the Standing Committee business papers;
- 2.4. Apply good analytical skills, objectivity, and judgment; and
- 2.5. Express frank opinions, ask relevant questions, and pursue independent lines of enquiry, with a view to trying to achieve consensus.





3. Recommendations to Council

- 3.1. The Standing Committee may make recommendations to Council on all relevant business presented before it in the form of minutes.

PROTOCOL

4. General

- 4.1. Except where modified in these terms of reference, the Standing Committee will operate in accordance with Part 20 of the Code of Meeting Practice.

5. Regularity of Meetings

- 5.1. Meetings will be held as determined by the Council.

6. Venue

- 6.1. The venue shall be determined by the Mayor.

7. Procedure

- 7.1. The procedure at Meetings will be in accordance with Council's Code of Meeting Practice.

8. Quorum

- 8.1. The Quorum for a meeting of the Standing Committee is to be in accordance with clause 20.4 of the Code of Meeting Practice.

9. Notice, Agenda, Business Papers & Minutes

- 9.1. Notices of meeting, agenda, and business papers will be prepared and given in accordance with clause 20.6 of the Code of Meeting Practice.
- 9.2. Any recommendations that require a Council Resolution will be reported to Council for consideration in accordance with clause 3.1 above.
- 9.3. Minutes will be prepared, confirmed and published in accordance with clauses 20.23-20.28 of the Code of Meeting Practice.





10. Chairperson & Deputy Chairperson

- 10.1. The Mayor shall be Chairperson of the Standing Committee.
- 10.2. The Deputy Mayor shall be Deputy Chairperson of the Standing Committee.
- 10.3. In the event of absence of a Chairperson or Deputy Chairperson, a member of the Committee shall act as Acting Chairperson.
- 10.4. If an Acting Chairperson is required, the election of the Acting Chairperson shall be the first item of business of the first meeting that an Acting Chairperson is required.

11. Review

- 11.1. These Terms of Reference will be reviewed as a minimum in the first twelve months after an ordinary election of Council.
- 11.2. Council must adopt any changes to the Terms of Reference.

References

- *Local Government Act (NSW) 1993.*
- *Narrabri Shire Council Code of Meeting Practice.*

History

Minute Number	Meeting Date	Description of Change
	22 March 2022	1 st Draft



13.6 NOTICE OF MOTION - REVIEW OF CODE OF MEETING PRACTICE**Attachments: Nil**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That Council review the Code of Meeting Practice at the next meeting of Council in Committee of the Whole to:

- (a) consider expanding the current Public Forum process to allow speakers to address Council if their matter is not an item on the Agenda;**
- (b) altering the Order of Business to include a Monthly Budget Report on the Capital Works Program referred to in the Interactive Capital Works Map on the webpage and including a Resolutions Register on the status of all outstanding decisions of Council since 1st July 2020;**
- (c) including Questions with Notice next to the item Notices of Motion in the form of “Notices of Motion/Questions with Notice” so that it is clear to Councillors and the community how matters can be raised at Council on behalf of the community.**

RATIONALE

Council is required to review the Code of Meeting Practice by the new Council this year, so this can be brought forward to deal with at the April meeting. The purpose of the proposed changes is to improve the level of accountability and transparency of Council with its finances and projects plus give the community and Councillors the opportunity to raise concerns or receive information in addition to the Customer Service Request system about them.

In this way, the community has a greater sense of connection with its Council and the Councillors/community have a better understanding of the financial position of Council when making resource allocation decisions.

At the moment, it appears that Councillors are just “rubber stamping” statutory reports presented quarterly in a format to satisfy the Office of Local Government and the Auditor without any details for Councillors and the community to gauge the level of efficiency of the Council. These changes will improve the level of accountability and transparency of Council and complements the Committee system being considered.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

In accordance with the *Local Government Act 1993*, the Code of Meeting Practice Policy is required to be reviewed within twelve months of an ordinary council election. The Governance and Risk section intends to work with Council to make amendments to the current policy in line with legislated requirements and best practice principles.

The Governance and Risk section’s plan is to brief and workshop with Council to review the policy on a ‘whole of document’ basis, which will be the most effective and efficient use of Councillors’

time and staff resources. The section currently intends on doing this early in the new financial year, as our resources are currently allocated to Integrated Planning & Reporting (IP&R) requirements (specifically the development of the 2022/2032 Community Strategic Plan, 2022/2026 Delivery Program, and the 2022/2026 Resourcing Strategy), as well as post-election requirements. The Governance and Risk Section's proposed plan for the Council meeting its post-election obligations will be set out at a briefing anticipated to occur in April. If Council wishes to resolve to proceed with the review of the Code of Meeting Practice prior to 1 July 2022; external resources will need to be budgeted.

In regard to clause (a), this is a deviation from the standard language of the Model Code of Meeting Practice. Its effect would be to allow any person to attend and speak to any issue regardless of its relevance to the agenda or Council's jurisdiction. There is a risk that public comment at public forums on agenda-relevant issues may be diluted by non-agenda-relevant issues, hindering Council's ability to receive and consider the public's view on the issues they will then have to make decisions about in the subsequent Council Meeting. This would also hinder the public's ability to be heard by Council on issues that affect them listed on agenda.

It is also worth noting that Local Government proceedings are not protected by parliamentary privilege, which is particularly relevant in terms of defamation law.

In lieu of this proposal, Councillors may wish to consider informal community engagement activities with the public. This will allow the public to raise issues with Councillors to inform agenda items at future meetings. Through Council's community engagement process, Monthly "Meet the Councillors" engagement events have been proposed by the community as part of the Community Engagement Strategy implementation.

In regard to clause (b), the current quarterly IP&R reporting regime requires reports to Council as to the activities actually conducted against the deliverables established in both the 2017/2022 Delivery Program and the 2021/2022 Operational Plan. This legislative practice requires Capital Works Program Reports is to be presented to Council quarterly and this is adhered to by Council.

Management make no comment as to clause (c) of the motion.

13.7 NOTICE OF MOTION - GENERAL MANAGER'S PERFORMANCE REVIEW PANEL

Attachments: 1. **Guidelines for the Appointment and Oversight of General Managers (under separate cover)**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That the General Manager provide Council with a report to the next meeting on the status of the General Manager's Performance Review process, including the appointment of Councillors to the Panel, providing details on the agreed Performance Agreement, if any facilitators are involved, training of panel members, etc., in order that Council be informed of the process and to make any appointments to the panel.

RATIONALE

When Councillors were appointed as delegates or representatives at the last meeting in February, the appointment of Councillors to the General Managers Performance Review Panel was not listed. It is understood the Panel to be Mayor, Deputy Mayor, a Councillor appointed by the Council and if he wants it a Councillor appointed by the General Manager and/or if a third party facilitator is engaged to assist the Panel.

This hasn't been done yet and as the minutes of the 23rd November 2021 reflect the period of review is from 1st July to 30th June so the Panel needs to be established and trained in how to conduct a Performance Review.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

The Office of Local Government has issued Guidelines under section 23A of the *Local Government Act 1993* (the Act) to assist councillors to be aware of their obligations under the *Local Government Act*, the *Local Government (General) Regulation 2005* and the Standard Contract of Employment for General Managers when recruiting, appointing, reappointing and managing the performance of general managers.

The Guidelines, which are designed to provide a summary of essential matters that must be addressed by councils when engaging in these processes, were developed in consultation with LGNSW.

As the Guidelines have been issued under section 23A of the Act, councils must take the Guidelines into consideration when exercising functions related to the recruitment, oversight and performance management of general managers.

13.8 NOTICE OF MOTION - DELEGATIONS**Attachments: Nil**

I, Councillor Greg Lamont, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

That the General Manager submit a report to Council on the delegations for the Mayor, Deputy Mayor and General Manager for Council to consider at the next meeting of Council.

RATIONALE

Delegations are normally presented to a new Council as soon as possible after the elections for the new Council to review and this has not happened at this stage meaning that Council is operating under delegations being approved by the former Council which may not suit the new Council.

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

The Governance and Risk Section is cognisant of Council's post elections obligations. As Councillors would be aware, there are a number of obligations post-election, each with time frames, ranging from three to twelve months. Given the importance of these governance measures, it is important that they are completed in a methodical way, which is what the legislative requirements envisage with the different timeframes for completion. The Governance and Risk Section is currently focused on Integrated Planning & Reporting requirements with the Community Strategic Plan 2022-2032, the Resourcing Strategy, the Delivery Program 2022-2026, and the Operational Plan 2022-2023 due to be completed and endorsed/adopted no later than 30 June 2022.

The Governance and Risk Section appreciates that Councillors are keen to discharge their obligations in this sphere. The Section intends on briefing Council in April on its proposed timetable for completing all of these actions before their deadlines. This will maximise the efficiency of staff and Councillor time, allowing both to work together methodically and carefully to ensure that proper governance takes place.

13.9 NOTICE OF MOTION - REVIEW OF OPERATIONS**Attachments: Nil**

I, Councillor Rohan Boehm, give notice that at the next Ordinary Meeting of Council be held on 22 March 2022, I intend to move the following motion:-

MOTION

For the benefit of community and stakeholders, review of Operations by way of the appointment and oversight of an Independent Due Diligence and Situation Analysis Reviewer for the primary benefit of Councillors in their pursuit of industry-leading governance of Council

RATIONALE

THEME: Society, Environment, Economy

Values: Leadership

Budget Implications

Phase 1: \$25,000

Phase 2: \$35,000

Narrabri Shire Council undertake an independent Due Diligence and Situational Analysis by a highly experienced expert Reviewer with extensive experience in Local Government to study and report to Councillors in two Phases over the next 12 months to for the primary purpose of assisting councillors in their focus on the three essential pillars that are critical for Council success and Corporate Performance. The Review works independently of management, however under the full authority of Council to undertake the review and to report in clear and unambiguous terms in respect of:

1. Technology
2. Process
3. People and Culture

Objective of Phase 1 – Reviewer to gather information from key stakeholders covering the three key pillars of Technology, Process, and People and Culture, to analyse and report to Councillors about the findings and detailing initial recommendations.

Phase 1

- With the support of the General Manager, an independent Reviewer is installed with the full authority of Council to undertake face-to-face oversight of Council operational sites for approx. 3-5 days in order to gain an “helicopter” overview of Councils current situation.

- This process consults with Council's primary stakeholders, Council executive teams, staff and day-to-day operations. On-site visits are undertaken that provide the Reviewer with face-to-face access to targeted stakeholders. The Reviewer would be afforded by Council, authority and opportunity for follow-up as seen fit using remote access to stakeholders if and as required to complete the Phase 1 project.
- Phase 2

Objective of Phase 2 – Develop recommendations concerning the three pillars of Technology, Process, and People and Culture in particular, with the objective of providing further analysis, reports and recommendations to Councillors, opportunity for review and to conduct Councillor workshops concerning:

- Budget implications and allocations, recommendations for adoption of policy, budget and governance reform
- Project plan for improvement is developed, reviewed, adopted as required, thence reported at each Ordinary Meeting of Council.

Due Diligence and Situational Analysis Processes

Technology:

Overview of Council's current corporate systems, functionality and integration of the systems to determine the degree to which all systems are being optimised for both internal and external customer delivery, identifying value for money, value to effective decision-making and operational performance, clarity, and timeliness of advice to Council concerning the needs of stakeholders.

Process:

Overview of the process for access to, and operations of the current management technology – end to end approach for Customer Experience both internal and external customers

Review of current policies, procedures, and Customer Standards (KPI) relating to performance, governance and effectiveness

People & Culture:

Review the current structure to ensure that structure will fit the vision of Council for example key areas plus other key areas

- Information Technology
- Planning & Development
- Customer Service
- Finance and financial management,
- Reporting and clarity of information related to effective decision-making of Councillors

Phase 2

- General Manager as the Sponsor of the project – reports to Councillors as a standing agenda item related to the progress on all adopted recommendations
- Review Working Group / Sub-committee reporting to all Council Committees where directors and stakeholders from each area are identified to manage action work plans with timeframes, budgetary oversights, and authority allocation
- During the project and to monitor the outcomes from the Due Diligence and Situational Analysis Report, three further on-site visits (quarterly) by the Reviewer is conducted as a 'health check' requiring Councillor engagement on the progress and agreed timeframes with collective oversight on targets, tracking on progress, maintenance of budget in respect of recommendations and to meeting the objectives agreed to and adopted by Councillors

I commend this Notice of Motion to Council.

MANAGEMENT REPORT (PROVIDED IN ACCORDANCE WITH CLAUSE 3.11 OF THE CODE OF MEETING PRACTICE)

This motion proposes expenditure of funds that are not already provided for in the Council's current adopted operational plan, and does not identify the source of funding for the proposed expenditure (clause 10.9 of the *Code of Meeting Practice*). Pursuant to rule 10.9, Council **must** defer consideration of the motion until the General Manager has prepared a report on the availability of funds for implementing the motion, if adopted.

Management recommends that the matter be referred to the General Manager for inclusion in the budget workshops scheduled to occur in the April/May period, following which a report can be prepared in accordance with clause 10.9. The Motion could be considered after that.

In relation to the Motion generally, Management notes that Council already has a legislatively mandated internal audit program, which is overseen by Council's Audit Risk and Improvement Committee (ARIC). While many Councils apply this program solely to their financial performance, Narrabri Shire Council undertakes audits of all of its service areas at different times. Typically, Council engages external providers to conduct the internal audits, due to their expertise in the field of the service area(s) being audited.

Management notes the proposed costing and suggests that this may be insufficient for the scope of proposed works set out in the rationale. For reference, Council's internal audits by external providers of only one service area, and often only one aspect of that service area, typically cost approximately \$15,000. To undertake a similar task across all of Council's functions would likely, in Management's view, cost significantly more.

14 CONFIDENTIAL (CLOSED COUNCIL) MEETING**RECOMMENDATION**

That Council move into Closed (Public Excluded) Meeting of Council and that the press and members of the public be asked to leave the room whilst Council considers the following items:

14.1 BP 65 Cooma Road - Finalisation of historical land administration matter

This matter is considered to be confidential under Section 10A(2) - (c) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

14.2 Draft Master Inland Rail Development Agreement (MIRDA)

This matter is considered to be confidential under Section 10A(2) - (d)(i) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

14.3 Narrabri Underground Voluntary Planning Agreement (VPA) Update

This matter is considered to be confidential under Section 10A(2) - (c) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

14.4 Log of Auto-Archive access

This matter is considered to be confidential under Section 10A(2) - (f) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.

14.5 Municipal Waste Collection Contract post September 2023

This matter is considered to be confidential under Section 10A(2) - (d)(i) and (d)(ii) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and information that would, if disclosed, confer a commercial advantage on a competitor of the council.

14.6 Notice of Motion - NSC at LODER

This matter is considered to be confidential under Section 10A(2) - (g) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

RECOMMENDATION

That Council move out of Closed (Public Excluded) Meeting and that the resolutions from the Closed (Public Excluded) Meeting be read out to those present by the General Manager or their nominee.

15 MEETING CLOSED
