



# **WALGETT SHIRE COUNCIL**

## **AGENDA**

**15 July 2008**

**RAY KENT**  
*General Manager*



7 July 2008

Administrator  
Walgett Shire Council  
PO Box 31  
WALGETT NSW 2832

**NOTICE IS HEREBY GIVEN** that the Ordinary Meeting of Walgett Shire Council will be held in the **Walgett Shire Council Chambers commencing at 10.00am.**

## **AGENDA**

### Welcome to Country

I would like to acknowledge the traditional owners of the lands within the Walgett Shire and I would also like to acknowledge the present Aboriginal and Torres Strait Islander people who now reside within this Shire.

### Public Forum Presentations

*(Limited to five minute presentations, and must relate to items listed within the Business Paper)*

## **CONFIRMATION OF MINUTES OF THE COUNCIL MEETING HELD 17 June 2008**

### **1. ADMINISTRATOR'S REPORT**

1. Additional Council Meeting in September 2008 ..... 16
2. Annual Performance review of General Manager ..... 17

### **2. GENERAL MANAGER'S REPORT**

3. Payment of Expenses and Provision of Facilities for Councillors..... 18
4. Code of Conduct..... 48
5. Code of Meeting Practice..... 91
6. Report on Management Plan 2007/2008 – 2011/2012 ..... 95

**3. DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT**

7. Review and Update of Policies and Development of Policy Manual .....	118
8. Investment Report as at 30 June 2008 .....	120
9. Rates and Charges Outstanding 30th June 2008 .....	122
10. Budget "Carry Forwards" to 2008/09.....	123
11. Tourism Development Activities - July 2008 Report .....	125

**4. DIRECTOR PLANNING AND REGULATORY SERVICES REPORT**

12. Former Walgett Railway Station Building.....	128
13. The Australian Opal Centre – Lightning Ridge.....	137
14. Alcohol Free Zones.....	155
15. Development and Complying Development Certificate Applications .....	170
16. Pesticide Residue Pit at the Walgett Aerodrome .....	174

**5. DIRECTOR INFRASTRUCTURE AND ENGINEERINGS SERVICES**

17. 2008-2009 Regional Roads Repair Program .....	178
18. Variation of Management Plan -Walgett Landfill License Compliance - Leachate and Water Testing.....	188

**6. COMMITTEE MINUTES**

19. Local Area Traffic Committee .....	192
--	-----

**7. REPRESENTATIVE REPORTS**

20. Minutes from the Mungindi Menindee Advisory Meeting.....	196
--	-----

**8. CLOSED COUNCIL MEETING**

Tabled as a separate Agenda

**MINUTES OF THE MEETING OF THE WALGETT SHIRE COUNCIL  
HELD IN THE WALGETT SHIRE COUNCIL CHAMBERS  
ON TUESDAY, 17 JUNE 2008 COMMENCING AT 10.02 am**

**PRESENT**

Mr Vic Smith	Administrator
Mr Ray Kent	General Manager
Mr Matthew Goodwin	Director, Planning and Regulatory Services
Mrs Carole Medcalf	Director, Corporate and Community Services
Mr Ian Taylor	Director, Rural Infrastructure and Support Services
Mrs Myrene Lovegrove	Accountant
Miss Jodie Gates	Minute Secretary

Administrator Vic Smith acknowledged the traditional owners of the land within the Walgett Shire and acknowledged the present Aboriginal and Torres Strait Islander people who now reside with this Shire.

Administrator Vic Smith welcomed those attending the meeting and invited any member of the community to address matters listed within the Council Agenda.

**OPEN FORUM PRESENTATIONS**

No Forum presentations were made.

**115/08 Confirmation of Council Minutes**

**RESOLUTION:**

It was resolved on the motion of the Administrator that the minutes of the Council meeting held on 20 May 2008 be confirmed

**CARRIED**

**116/08 Acceptance of Reserve Trust Minutes and Report**

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. Council endorse the resolutions of the Reserve Trust meetings held 17th June 2008.
2. Council takes action to implement the resolutions of the Reserve Trusts.

**CARRIED**



<b>117/08</b>	<b>Administrator's Minute – Queen's Birthday Awards</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that letters under the Council Seal be forwarded to Mr Ian Woodcock, Ms Valerie Austin and Mr Mark de Weerd congratulating them on receiving their awards.

**CARRIED**

<b>118/08</b>	<b>Contractual Conditions of Senior Staff</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that the report be received.

**CARRIED**

<b>119/08</b>	<b>Designated Persons and the submission of Written Returns</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that the occupants of the following positions be deemed designated persons pursuant to Division 1 of Part 2 of the Local Government Act 1993:

1. Director, Corporate and Community Services
2. Director, Planning and Regulatory Services
3. Director, Rural Infrastructure and Support Services
4. Director, Urban Infrastructure Services
5. Accountant
6. Technical Officers with expenditure authority of \$20,000 or greater
7. Projects Engineer
8. Stores Officer
9. Support Services Co-ordinator
10. Tourism Development Officer

**CARRIED**

<b>120/08</b>	<b>Proposed Changes to Rates Assessment Classifications</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. Assessment Numbers 49437, 22772, 20800, 28845, 23499, 21436, 21428, 22129 be re-classified as Business Non Urban.
2. Assessment Number 54957 be re- classified as Farmland Rural.
3. Assessment Numbers 8565 and 31088 be re- classified as Business Burren Junction.

**CARRIED**

<b>121/08</b>	<b>Proposed Amendments to Management Plan 2008/2009 – 2012/2013</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. The report be received.
2. The Management Plan be further amended by increasing the grant to the Australian Opal Centre in Lightning Ridge in 2008/2009 by \$14,000.00

**CARRIED**

<b>122/08</b>	<b>Budget and Management Plan 2008/2009 – 2012/2013</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that

1. Council adopt the Management Plan 2008/2009 – 2012/2013 as presented.
2. Council adopt a 3.2% increase in the total levy for General Fund Rates.
3. The Fees and Charges 2008/2009 as listed in the Management Plan be adopted, with Council reserving the right to vary fees and charges of a commercial nature as circumstances require.
4. Council adopt the Budget 2008/2009 – 2012/2013 as presented.
5. Council resolves to adopt the rates structure for ordinary rates as follows:

<b>Ordinary Rate</b>	<b>Cents</b>		
Business Rate, Walgett	2.964	in \$	With a base amount of \$180.00 yielding 34.2% of the Business Rate, Walgett rate income.
Residential Rate, Walgett	2.963	in \$	With a base amount of \$178.50 yielding 49.9% of the Residential Rate, Walgett rate income
Business Rate, Lightning Ridge	1.31	in \$	With a base amount of \$250.00 yielding 23.5% of the Business Rate, Lightning Ridge rate income
<b>Ordinary Rate</b>	<b>Cents</b>		
Residential Rate, Lightning Ridge	1.3	in \$	With a base amount of \$155.00 yielding 32.7% of the Residential Rate, Lightning Ridge rate income
Business Rate, Collarenebri	7.421	in \$	With a base amount of \$162.00 yielding 40.5% of the Business Rate, Collarenebri rate income
Residential Rate, Collarenebri	7.42	in \$	With a base amount of \$149.00 yielding 49.4% of the Residential Rate, Collarenebri rate income
Business Rate, Burren Junction	6.0	in \$	With a base amount of \$225.00 yielding 25.9% of the Business Rate, Burren Junction rate income
Residential Rate, Burren Junction	5.0	in \$	With a base amount of \$150.00 yielding 30.4% of the Residential Rate, Burren Junction rate income
Business Rate, Carinda	3.39145	in \$	With a base amount of \$200.00 yielding 45.6% of the Business Rate, Carinda rate income
Residential Rate, Carinda	15.0	in \$	With a base amount of \$65.00 yielding 42.9% of the Residential Rate, Carinda rate income
Business Rate, Cumborah	1.97	in \$	With a base amount of \$75.00 yielding 0.09% of the Business Rate, Cumborah rate income
Residential Rate, Cumborah	1.94975	in \$	With a base amount of \$70.00 yielding 39.8% of the Residential Rate, Cumborah rate income

## WALGETT SHIRE COUNCIL AGENDA

Business Rate, Come-By-Chance and Rowena	30.5	in \$	With a base amount of \$66.00 yielding 39.4% of the Business Rate, Come-By-Chance and Rowena rate income
Residential Rate, Come-By-Chance and Rowena	30.0	in \$	With a base amount of \$65.00 yielding 49.9% of the Residential Rate, Come-By-Chance and Rowena rate income
Business Rate, Non-Urban	0.95	in \$	With a base amount of \$130.00 yielding 46.5% of the Business Rate, Non-Urban rate income
Residential Rate, Non-Urban	0.75	in \$	With a base amount of \$110.00 yielding 46.8% of the Residential Rate, Non-Urban rate income
Business Rate, Mining	4.716874	in \$	With a base amount of \$114.85 yielding 49.8% of the Business Rate, Mining rate income
Farmland Rate, Rural	0.404201	in \$	With minimum of \$165.12
Farmland Rate, Rural Irrigable	0.53	in \$	With minimum of \$165.12

6. That Council resolves in accordance with Section 563 of the *Local Government Act 1993*, to make the discount 3.6% for payment in full of total rates and charges (less any rebates) for ratepayers whose payments are received in full on or before the 29 August 2008.

7. That the Domestic Waste Management Services be set as:-

- (a) Availability Charge \$33.60 per annum
- (b) Collection Charge \$307.45 per annum

8. That the interest rate to be charged on overdue rates be set at 10% per annum.

9. That a levy for Water Supply be applied as a flat rate as follows:

- (a) Walgett \$716.70 per annum
- (b) Lightning Ridge \$637.35 per annum
- (c) Collarenebri \$744.20 per annum
- (d) Carinda Town Bore \$313.10 per annum
- (e) Carinda Bore \$297.50 per annum
- (f) Rowena \$368.10 per annum

10. That a levy for Sewerage be applied as follows:

- (a) Walgett \$337.75
- (b) Lightning Ridge \$319.80
- (c) Collarenebri \$365.60

11. That a levy for water supplied to non-rateable properties be set as follows:

- (a) Walgett \$716.50 per annum
- (b) Lightning Ridge \$637.35 per annum
- (c) Collarenebri \$744.20 per annum
- (d) Carinda Town Bore \$313.10 per annum
- (e) Carinda Bore \$297.50 per annum
- (f) Rowena \$368.10 per annum

12. That a levy for Sewerage Service supplied to non-rateable properties be set at \$235.60.

13. That a Pedestal Charge for additional sewerage charges be set as follows:

- (a) Walgett \$337.75
- (b) Lightning Ridge \$319.80
- (c) Collarenebri \$365.60

14. That a Cistern Charge for additional WC's and urinals be set as follows:

(a)	Walgett	\$52.90
(b)	Lightning Ridge	\$49.85
(c)	Collarenebri	\$57.35

**CARRIED**

<b>123/08</b>	<b>Lehman Brother's Investment Report</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. Council continue monitoring their investments with Lehman Brothers in accordance with the recommendations of the Review of NSW Government Investments, April 2008.
2. Council incorporate the amended Ministerial Investment Order into its Investment Policy as soon as it is available from the Department of Local Government.

**CARRIED**

<b>124/08</b>	<b>Spencer Steer Audit Management Letter Report</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. Council note the Audit Management Letter received from Spencer Steer Dated 21 April 2008.
2. Council adopt all recommendation to strengthen and/or improve procedures.

**CARRIED**

<b>125/08</b>	<b>Report in Youth Development Services – March to June 2008</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. The report on Youth Development and Services for the period March 2008 – June 2008 be noted.
2. Council staff involved in the Youth Service be congratulated for their efforts.

**CARRIED**

<b>126/08</b>	<b>Occupational Health &amp; Safety</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that Council receive and note the report on OH&S workplace progress and issues requiring further action.

**CARRIED**

<b>127/08</b>	<b>Community Services Activities Quarterly Report</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. That Walgett Shire Family Day Care service be reviewed in the next six months.
2. That Council receive and note the Community Liaison Officer's Report

**CARRIED**

<b>128/08</b>	<b>Investment Report as at 31 May 2008</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that the Investment report as at 31 May be received.

**CARRIED**

<b>129/08</b>	<b>Development and Complying Development Certificate Applications</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that Walgett Shire Council resolve to note the Development and Complying Development Certificate applications dealt with under delegated authority by the Director Planning and Regulatory Services and General Manager during May 2008.

**CARRIED**

<b>130/08</b>	<b>Development Application – Subdivision at Cryon</b>
---------------	---

**RESOLUTION:**

It was resolved on the motion of the Administrator that Development Application 2008010 be approved under the following conditions of consent.

**PRESCRIBED CONDITIONS OF DEVELOPMENT CONSENT**

As no “work” is to be undertaken there are no prescribed conditions of development consent under the Environmental Planning and Assessment Regulation 2000.

**CONDITIONS IMPOSED BY COUNCIL**

The following development consent conditions are imposed by Council.

**GENERAL**

Gen 010.

It is possible that a covenant may affect the land, which is subject to this consent. The granting of this consent does not necessarily override any covenant. You should seek legal advice regarding the effect of any covenants that may affect the land.

Reason: To avoid breaching the requirements of any covenant.

Gen 020.

Any future development on the subject site or use of the subject land in a manner inconsistent with this development consent (approval) will require separate development consent to be obtained from council in writing prior to the commencement of any work.

Reason: To ensure compliance with the Environmental Planning and Assessment Act 1979.

Gen 030.

Council is to be immediately informed in writing if arrangements for work are changed.

Reason: To enable Council to maintain an accurate record of approvals granted.

**SUBDIVISION/CONSOLIDATION**

Sub 040.

That two lots are created by the subdivision of Lot 3, DP 752258, one of about 75 hectares and the other about 184 hectares.

Reason: To ensure that the development proceeds in the manner proposed by the applicant and approved by Council.

Sub 120.

A surveyor’s plan must be submitted to Walgett Shire Council prior to the expiry date of this development consent so that the subdivision certificate on the plan can be signed by an authorised officer.

Reason: The subdivision cannot be registered with the Land Titles Office, and be finalised, until the subdivision certificate on the surveyors plan is signed by an authorised officer of Walgett Shire Council.

Sub 130.

The subdivision certificate will not be released until development consent conditions under this section (titled “subdivision”) have been complied with.

Reason: To ensure compliance with the terms of the development consent.

**APPROVED PLANS**

Pln 010.

The development shall be implemented in accordance with:

- (a) All documentation and correspondence submitted by the applicant, or their agents, in support of the Development Application,
- (b) the details set out on the plans approved and stamped by authorised officers of Council, except as amended by the conditions of this development consent.

Reason: To ensure that the development proceeds in the manner proposed by the applicant and approved by Council.

**ADVISORY NOTE - FLOODING**

The applicant/owner is advised that the site is subject to inundation by floodwater to an unknown depth and velocity. You are advised to obtain your own expert advice as to the likely effects of such inundation.

**CARRIED**

<b>131/08</b>	<b>Local Heritage Fund Expenditure 2007 - 2008-06-17</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that Walgett Shire Council resolve to note and endorse the attached report titled "Walgett Shire Local Heritage Fund – Summary List of Completed Projects 2007 – 08" as prepared by Council's Heritage Advisor, Graham Hall in May 2008.

**CARRIED**

<b>132/08</b>	<b>Application for a Western Lands Lease</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that Council write to the Department of Lands and state that Walgett Shire Council:

1. Supports the granting of a Western Lands Lease for "Business Purposes - Tourism" over residential Mineral Claim 10702, which is commonly known as the "Black Queen" in the following circumstances:
  - a. The lease is granted over the area of existing Mineral Claim 10702.
  - b. The lease holder applies for, and obtains, development consent for the long established commercial land uses that are occurring on the site. Council notes that a Development Application can, and should, be lodged once the Western Lands Lease has been granted.
  - c. If development consent is not obtained, for any reason, Walgett Shire Council may object to renewal of the lease.
2. Does not support the granting of a Western Lands Lease for "Business Purposes - Car Park and Tourism (Eco accommodation/B&B)" over residential Mineral Claim 14568 because the proposed purpose of "tourism (Eco accommodation/B&B)" is a new use which does not have development consent. Believes that further consideration of whether an accommodation land use is appropriate on this site be deferred pending the submission of a Development Application once the Walgett Local Environmental Plan has been gazetted.
3. Does support the granting of a Western Lands Lease for "Business Purposes - Car Park" in the following circumstances:

- a. The lease is granted over a maximum of 50% of the area of existing Mineral Claim 14568.
- b. The lease holder applies for, and obtains, development consent for the long established commercial land uses that are occurring on the site. Council notes that a Development Application can, and should, be lodged once the Western Lands Lease has been granted.
- c. If development consent is not obtained, for any reason, Walgett Shire Council may object to renewal of the lease.

**CARRIED****133/08 Rural Addressing Road Name Amendments****RESOLUTION:**

It was resolved on the motion of the Administrator that Walgett Shire Council resolve to:

1. Note the submissions received during the public consultation period regarding proposed rural road name changes associated with its rural addressing project.
2. Advertise and invite public submissions on the amendments to the proposed rural road name changes (as listed in the table below) for a minimum of 28 days.

ROAD	AMENDED NAME
SR2 Merrywinebone Road	SR2 Belarra
SR24 Bucklebone Road	SR24 Marlbone Road
SR40 Mullins Swamp Road	SR40 Gingham Road
SR64 Mission Road	SR64 Wimbledon Road
SR 81 Wilds Road	SR 81 Mac Masman
SR103 Nunkeri Road	SR103 Bugilbone Road
SR123 Ibon Road	SR123 Rowena Road
SR124 Bugilbone Road	SR124 Dundee Road
SR125 Glen Edan Road	SR125 Glen Eden Road
SR128 Eurimbla Lane	SR128 Camerons Lane
RR202 Marthaguy Road	SR202 Merri Merri Road
RR329 Meritaroo Road	RR329 Merrywinebone Road

3. Consider any further submissions received from the public prior to taking any action on rural road name changes.

**CARRIED**



<b>134/08</b>	<b>Provision of Staff Housing in Walgett</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that:

1. The Development Application, Construction Certificate and other associated Documents identified on the site layout plan pertaining to the proposed New Staff Housing on Lot 31 DP 226373 be executed by the General Manager and Administrator and lodged for approval.
2. Tenders be called for the construction of the above development on Lot 31 DP226373.

**CARRIED**

<b>135/08</b>	<b>Installation of Gross Pollutant Traps at Collarenebri and Lightning Ridge</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that the Agreement for Community Gross Pollutant Trapping be executed by the General Manager and Administrator and Council's Seal be attached thereto.

**CARRIED**

The Administrator formally thanked all staff involved in the preparation of the Management Plan.

<b>136/08</b>	<b>Closed Council Meeting</b>
---------------	-------------------------------

It was resolved on the motion of the Administrator that the public be excluded from the meeting pursuant to Section 10A (2) (c) and (g) of the Local Government Act 1993.

**CARRIED**

*The following resolutions were brought forward from the Closed Council Meeting:-*

<b>137/08</b>	<b>Write off Sundry Debt</b>
---------------	------------------------------

**RESOLUTION:**

It was resolved on the motion of the Administrator that Council cease any further legal action against Mr Halton and write off the total amount of \$843.06 inclusive of legal fees.

**CARRIED**

<b>138/08</b>	<b>Tenders E08002 &amp; E08003 – Supply and delivery of one (1) ERG Class MG7 Motor Grader and/or Purchase Only of Caterpillar 12H Grade Serial 2WR488</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that Council award Contract E08002 supply and delivery of one (1) ERG Class MG7 Motor Grader and trade-in of Caterpillar 12H Grader Serial 2WR488, to Westrac Pty Ltd for the lump sum price of \$160,000.00 plus GST and decline to accept any tenders for contract E08003 for the purchase only of Caterpillar 12H Grader Serial 2WR488.

**CARRIED**

<b>139/08</b>	<b>Contracts for the Management of Walgett and Lightning Ridge Waste Management Facilities</b>
---------------	--

**RESOLUTION:**

It was resolved on the motion of the Administrator that Council authorise the General Manager and Administrator to negotiate and execute the contract option for each of the following Contracts under Council Seal:

- RA & ES Yeomans – Management Contract for Waste Management Facilities at Walgett Townsite 2003
- GG Lane Earthmoving – Management Contract for Waste Management Facilities at Lightning Ridge 2003

Subject to the following conditions:

- 1) The term of the contract shall not extend beyond 30 June 2013;
- 2) The minimum opening hours may be varied, but only with a proportional change in the Contract Fee;
- 3) The index used to annually adjust the contract sum may be changed to more accurately reflect changes in cost factors affecting the operation of the facilities;
- 4) A new Contract Fee may be established for 2008/2009 by retrospectively applying the index agreed in (3) above to the original Contract Fee for 2003/2004, but there shall be no additional payment for previous years;
- 5) (3) and (4) above must only be negotiated with GG Lane Earthmoving in response to his request for an increase in remuneration under the contract, a request not made by RA & ES Yeomans Engineering; and
- 6) No other changes shall be made to the existing Conditions of Contract affecting the payments due to the Contractor from Council and the payments due to Council from the Contractor.

**CARRIED**

The meeting closed at 10.26

To be confirmed by Council at its ordinary meeting to be held on Tuesday, 15 July 2008.

---

Administrator

---

General Manager

**Recommendation**

**That the minutes of the Council meeting held on 17 June 2008 be confirmed**

## **1. *ADDITIONAL COUNCIL MEETING IN SEPTEMBER 2008***

**REPORTING SECTION:** Administrator  
**AUTHOR:** Vic Smith - Administrator  
**FILE NUMBER:** 013/06/01/44

---

### **Summary:**

Because of current workload, and the fact that the Council Meeting scheduled for 23<sup>rd</sup> September 2008 will be primarily concerned with procedural matters associated with the start of the term of a new Council, it is considered appropriate to schedule an additional Ordinary Meeting of Council for Tuesday 2<sup>nd</sup> September 2008.

### **Discussion (including issues and background):**

The August 2008 Council meeting has been scheduled for Tuesday 5<sup>th</sup> to coincide with the visit to Walgett Shire of representatives of Gosford Shire Council. The Gosford Shire Council representatives, along with Gosford residents, will be in Walgett to participate in the Walgett Festival.

The September meeting of Council has, of necessity, been scheduled for Tuesday 23<sup>rd</sup> as a consequence of the periodic Council election being held on Saturday 13<sup>th</sup> September. This meeting will be primarily concerned with procedural and planning matters as no Councillors will have undertaken necessary training. In the absence of an additional Council meeting being scheduled for September, it would be some 11 weeks between operational meetings ie 5<sup>th</sup> August to 21<sup>st</sup> October.

### **Relevant Reference Documents:**

Nil

### **Stakeholders:**

Residents

### **Financial Implications:**

Nil

### **Recommendations:**

#### **That:**

- 1. An additional ordinary meeting of Council be held at 10.00 am Tuesday 2<sup>nd</sup> September 2008 in Walgett.**
- 2. The General Manager undertake the appropriate public notification of the meeting**

## **2. ANNUAL PERFORMANCE REVIEW OF GENERAL MANAGER**

**REPORTING SECTION:** Administrator  
**AUTHOR:** Vic Smith - Administrator  
**FILE NUMBER:** 295/01/16/00

---

Report to be tabled at meeting

### **3. PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS**

**REPORTING SECTION:** General Manager  
**AUTHOR:** Ray Kent - General Manager  
**FILE NUMBER:** 145/08/01/00

---

#### **Summary:**

Council must review and submit a Policy on "Expenses and Facilities" to the Director General of the Department of Local Government each year. Before adopting a new or substantially amended Policy, Council must give public notice of at least 28 days and call for public submissions.

#### **Discussion (including issues and background):**

Attached is a new Policy which is proposed to replace the current Policy (also attached). The new Policy:

1. Quantifies a range of expenses and allowances that are not quantified in the current policy
2. Adopts Australian Taxation Office guidelines for the determination of the maximum limits for accommodation and meal expenses
3. Provides for "carer" costs and financial assistance for the disabled
4. Provides for the provision of additional facilities, services and allowances such as printer, telephone line, allowance for internet/email
5. Provides guidance for the standard of vehicle to be made available to the Mayor and allows for the Mayor to be provided with a mobile phone

A summary of key proposed provisions is as follows:

1. Councillors paid a mileage rate for use of private vehicle on Council business as prescribed in the Local Government State Award
2. Council will supply: combined phone/fax/answering machine; laptop computer and printer; telephone line
3. Council will pay: rental of one telephone line; allowance of \$60 per month to cover phone calls; allowance of \$30 per month if Councillors have internet/email and make available for Council business
4. Councillors can claim Carer expenses up to \$2,000 per annum
5. Councillor assistance to a limit of \$2,000 per annum is available to assist overcome disability, access problems
6. Councillors provided with comprehensive insurance cover
7. Councillors provided with access, at the Walgett Administration Centre, to: photocopier; facsimile machine; telephone; internet enabled computer; meeting room
8. Councillors provided with secretarial support and access to Council pool car
9. Council will meet postal costs if mail directed through Council mailing system
10. Councillors provided with four drawer filing cabinet for home use
11. Councillors provided with: business cards; name badge; all stationery including writing pads, pens, diaries, folders, paper for facsimiles and printers, ink cartridges
12. All Councillors entitled to attend Annual Conference of Shires Association with spouse/partner and the Annual C Division Conference of the Shires Association. Female Councillors entitled to attend the Annual Australian Local Government Women's Association NSW Branch Conference.

13. Councillors entitled to attend maximum of three conferences/seminars in addition to those identified in 12. above
14. In addition to the entitlements of a Councillor the Mayor will be provided with: a fully serviced, fueled and maintained vehicle for Council business to a standard equivalent to a Holden Berlina or Ford Fairmont; a mobile phone; a dedicated office in the Administration building at Walgett with computer and phone.

**Relevant Reference Documents:**

Local Government Act 1993 and Regulations; Various Department of Local Government Guidelines

**Stakeholders:**

Councillors and citizens

**Financial Implications:**

Provision for all costs has been made in the 2008/09 Budget

**Recommendations:**

**That:**

1. The Draft Policy, "Payment of Expenses and Provision of Facilities for Councillors", be placed on public exhibition for a period not less than 28 days and submissions on its provisions be invited.
2. The Draft Policy be further considered at the September 2008 Ordinary Meeting of Council, along with any submissions received during the public exhibition period .

## **Walgett Shire Council**

### **Payment of Expenses and Provision of Facilities for Councillors**



Walgett Shire Council

# Index

1. INTRODUCTION .....	3
1.1 Purpose of the Policy .....	3
1.2 Policy Objectives .....	3
2. STATUTORY REQUIREMENTS AND OTHER POLICY PROVISIONS .....	4
2.1 Local Government Act 1993 .....	4
2.2 Reporting Requirements .....	4
2.3 Legislative Provision .....	4
2.4 Other Government Policy Provisions .....	6
2.5 Approval Arrangements .....	6
3. PAYMENT OF EXPENSES .....	7
3.1 Payment of Expenses Generally .....	7
3.2 Allowances and Expenses .....	7
3.3 Reimbursement and Reconciliation of Expenses .....	7
3.3.1 - Incidental Expenses .....	7
3.4 Payment in Advance .....	8
3.5 Establishment of Monetary Limits and Standards .....	8
3.6 Spouses, Partners and Accompanying Persons Expenses .....	8
3.7 Payment of Annual Fees .....	9
3.8 Travel Arrangements and Expenses .....	9
3.8.1 Community, Council and Council Committee Meetings .....	10
3.8.2 Community Meetings .....	10
3.8.3 Council Delegates .....	10
3.8.4 Interstate and Overseas Travel .....	11
3.8.5 Attendance at Seminars, Conferences and Training .....	11
3.8.6 Inspections .....	12
3.9 Expenses for Seminars, Conferences and Training .....	12
3.10 Reports on Conference Attendance .....	12
3.11 Care and Other Related Expenses .....	12
4. PROVISION OF EQUIPMENT AND FACILITIES .....	13
4.1 Standard of Provision of Equipment and Facility .....	13
4.2 Monetary Limits of Provision of Equipment and Facility .....	13
4.3 The Deputy Mayor .....	13
4.4 Councillors .....	14
4.5 Election Material .....	14
4.6 Provision of Telephone, Faxes, Computers etc .....	14
4.7 Legal Assistance Provisions and Expenses .....	14
5. OTHER MATTERS .....	16
5.1 Returning of Facilities and Equipment by Councillors .....	16
5.2 Private Benefit .....	16
5.3 Policy Availability .....	16
5.4 Review of Policy .....	16
5.5 Reporting Obligations .....	17
5.6 Policy Reviews .....	17

Walgett Shire Council

## **1. INTRODUCTION**

### **1.1 Purpose of the Policy**

The purpose of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

### **1.2 Policy Objectives**

The objectives of this policy are to:

- Ensure Council provides adequate facilities and services for the Mayor and Councillors to carry out civic duties; and
- Identify expenses, incurred while conducting official duties, for which Council will reimburse the Mayor and Councillors.
- Assist the Mayor and Councillors in representing the interests of the residents and ratepayers of the Walgett Shire Council and to facilitate communication between the community and the Council.

Walgett Shire Council

## **2. STATUTORY REQUIREMENTS AND OTHER POLICY PROVISIONS**

### **2.1 Local Government Act 1993**

The Local Government Act 1993 contains specific Sections with respect to the payment of Councillors' fees, expenses and facilities.

### **2.2 Reporting Requirements**

Section 248 states:

1. A Council must pay each Councillor an annual fee.
2. A Council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
3. The annual fee so fixed must be the same for each Councillor.
4. A Council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

### **2.3 Legislative Provision**

Section 252 states:

1. Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor (if there is one) and the other Councillors in relation to discharging the functions of civic office.
2. The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the Mayor or a Councillor of a facility provided by the council to the Mayor or Councillor.
3. A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the Mayor, the Deputy Mayor or a Councillor otherwise than in accordance with a policy under this section.
4. A council may from time to time amend a policy under this section.
5. A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

Walgett Shire Council

Section 253 states:

1. A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
2. Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
3. Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
4. Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
  - a. a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
  - b. a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
  - c. a copy of the notice given under subsection (1).
5. A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

Section 428, inter alia, requires councils to include in their Annual Report to the Minister:

1. A report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year, within five months after the end of each year a Council must prepare.

The report must include details of:

- (f) the total amount of money expended during the year on Mayoral fees and Councillor fees, the council's policy on the provision of facilities for use by Councillors and the payment of Councillors' expenses, together with a statement of the total amount of money expended during that year on the provision of such facilities and the payment of such expenses.
2. Additional information as required by clause 217 of the Local Government (General) Regulation 2005.

Walgett Shire Council

**2.4 Other Government Policy Provisions**

DLG Guidelines for Payment of Expenses and Provision of Facilities  
Council's Code of Conduct  
DLG Circulars to Councils  
ICAC Publications

**2.5 Approval Arrangements**

To prevent a potential conflict, no one person should be the sole decision maker for the approval of arrangements.

Approval for discretionary trips and attendance at conferences and the like should be (where possible) approved by a full meeting of the council. If this is not possible, then the Mayor and the General Manager should give the approval jointly.

If the Mayor requires approval to travel outside of council meetings it should be given jointly by the Deputy Mayor, or another Councillor, and the General Manager.

## **3 PAYMENT OF EXPENSES**

### **GENERAL PROVISIONS**

#### **3.1 Payment of Expenses Generally**

To seek reimbursement for expenses, Councillors should submit a Claim for Reimbursement of Expenses within one (1) month of the expense being incurred.

#### **3.2 Allowances and Expenses**

Council should set a level of expenses and facilities to realistically account for costs incurred by Councillors, independent of the level of their annual fees. The rates of expenses and level of equipment provision should follow the DLG Guidelines and conform to legislative and statutory requirements.

There is no provision that enables Council to pay a Councillor an allowance in the nature of a "general expenses" allowance. Section 252 only authorises payment or reimbursement of actual expenses incurred by Councillors in carrying out their civic duties.

#### **3.3 Reimbursement and Reconciliation of Expenses**

The reimbursement of expenses and costs incurred should be in accordance with the requirements of Council's expenses procedures.

Incidental expenses may not require specific receipts provided it can be demonstrated that expenditure was incurred and is not general in nature. Where receipts are not required it would be appropriate for Councillors to certify that the expenditure was for the purpose intended.

##### **3.3.1 - Incidental Expenses**

Reasonable out-of-pocket or incidental expenses associated with Councillors attending conferences, seminars or training courses may be reimbursed provided that it can be demonstrated that the expenses were actually incurred and that established reconciling procedures are followed, for example, the completion of a claim form. The claim form must include an itemised account of expenditure and should not be general in nature.

Incidental expenses include telephone or facsimile calls, refreshments, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees. In addition, the cost of meals not included in the registration fees for conferences or similar functions may be reimbursed after being reconciled.

Walgett Shire Council

### 3.4 Payment in Advance

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home. Councillors may also request an advance payment for the cost of any other service or facility covered by this policy.

Councillors should fully reconcile all expenses against the cost of the advance payment within two (2) weeks of their return from the conference, seminar or the like. No "allowance" type of payment will be payable in any circumstances.

### 3.5 Establishment of Monetary Limits and Standards

Council considers that the setting of monetary limits for the reimbursement of expenses is not practicable.

### 3.6 Spouses, Partners and Accompanying Persons Expenses

3.6.1 An accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

3.6.2 Where certain costs incurred by the Councillor on behalf of their spouse, partner or accompanying person are properly those of the Councillor in the performance of his or her functions, then those costs will be reimbursed to the Councillor:

- (i) Reimbursement of the reasonable costs of spouses, partners or an accompanying person for attendance at official council functions that are of a formal and ceremonial nature, is considered appropriate when accompanying Councillors within the local government area. Examples include Australia Day award ceremonies, Citizenship ceremonies, civic receptions and charitable functions for charities formally supported by the Council.
- (ii) Reimbursement for the payment of expenses for the spouse, partner or accompanying person of the Mayor (or a Councillor when they are representing the Mayor) for attendance at an official function of Council or an official ceremonial duty while accompanying the Mayor outside the local government area, but within the State, is considered appropriate. Examples include charitable functions to which the Mayor has been invited and award ceremonies and other functions to which the Mayor is invited to represent the Council.
- (iii) Reimbursement of expenses, limited to the cost of registration and the official conference dinner, of spouses, partners or accompanying persons associated with attendance at the Shires Association's annual conference is considered appropriate. Travel expenses, any additional accommodation expenses, and the cost of partner/accompanying person tours etc would be the personal responsibility of individual councillors.

3.6.3 Councillors' spouse, partner or accompanying person may attend seminars, conferences or the like with Councillors (any event or function outside the

Walgett Shire Council

council area, including interstate and overseas), subject to any additional travel, accommodation, partner/accompanying person tours, sustenance costs, and the like being met by the individual Councillor concerned or his/her partner (with the exception of attendance at Local Government Association Annual Conferences, as noted in 3.6.2(iii) ).

- 3.6.4 The payment of expenses for spouses, partners or accompanying persons for attending appropriate functions (as permitted above) is confined specifically to the ticket, meal and/or the direct cost of attending the function. Peripheral expenses incurred by spouses, partners or accompanying persons such as grooming, special clothing and transport are not considered reimbursable expenses.
- 3.6.5 In the event of a Councillor seeking an advanced payment (as noted in 3.4) or reimbursement of expenses for attendance at any seminar, conference or the like, a written claim is to be submitted to the General Manager providing appropriate details with official receipts for expenditure. Councillors must fully reconcile all expenses against the cost of the advance within two (2) weeks of their return.

### **SPECIFIC EXPENSES FOR MAYORS AND COUNCILLORS**

#### **3.7 Payment of Annual Fees**

Council shall fix the annual fees for the Mayor and Councillors in accordance with the determination limits of the Local Government Remuneration Tribunal each financial year.

#### **3.8 Travel Arrangements and Expenses**

All travel by Councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport subject to any personal medical considerations.

Travel arrangements could include the use of a private vehicle and provisions for the use of public transport, taxis, hire cars, travel using a council vehicle and associated other costs such as parking and road tolls.

The driver of a vehicle is personally responsible for all traffic or parking fines incurred while travelling in private or council vehicles on council business.

If a private vehicle is used the "mileage" allowance will be paid at the then current rate set by the NSW Local Government (State) Award multiplied by the kilometres travelled.



Walgett Shire Council

3.8.1 Community, Council and Council Committee Meetings

- i Councillors will advise the General Manager of their normal mode of travelling to Council and Council Committee meetings.
- ii Payment to and from Community meetings, Council meetings and Council Committee meetings will be based on the number of kilometres travelled x the Local Government Award rate for Council employees who use their private vehicle for Council business, or the cost of public transport.

A policy under Section 252 of the Act and in accordance with Clause 403 of the Local Government (General) Regulation 2005, must not include any provision enabling a Council to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.

3.8.2 Community Meetings

Council will pay a private vehicle allowance or the cost of public transport, as indicated in 3.8.1(ii) to Councillors to allow them to attend meetings including:

- Civic Receptions
- Community group meetings where the Councillors will receive information relating to civic duties
- Precinct Committee meetings
- Carry out inspections within the Walgett Shire
- Carry out inspections of activities and developments in other Local Government Areas where it is considered appropriate in order that a similar facility may be provided in the Walgett Shire
- Meetings with Government Officials
- Meetings with Community and Private Sector Officials where such meeting relates to civic duties

3.8.3 Council Delegates

In the event of a Councillor being authorised by Council resolution to nominate, and ultimately succeeds as a delegate to an outside related Local Government organisation, if the most appropriate mode of travel is by vehicle, and a Council vehicle is not available, the vehicle allowance indicated in 3.8.1(ii) shall apply.

This section of the policy will only apply if the outside organisation does not meet the travelling expenses of the delegate.

Walgett Shire Council

3.8.4 Interstate and Overseas Travel

Prior approval of travel is required for interstate travel in accordance with Clause 2.5. The application for approval should include full details, including itinerary, costs and reasons for the travel.

Council will not approve international visits unless direct and tangible benefits can be established for the council and the local community.

A detailed proposal for overseas travel should be developed, including: nomination of the Councillor(s) undertaking the trip, the purpose, expected benefits, duration and the approximate total cost.

Overseas travel must be approved at an Open Council meeting through a report prior to a Councillor undertaking the trip. Travel proposals providing the above details will be included in Council Agenda Papers.

Council will not allow the retrospective re-imbursement of overseas travel expenses unless prior authorisation of the travel has been obtained.

After returning from overseas, Councillors, or an accompanying member of council staff, will provide a detailed written report to an Open Council meeting on the aspects of the trip relevant to council business and/or the local community.

If an overseas trip is to be sponsored by private enterprise, ICAC guidelines and reporting structures shall be followed.

3.8.5 Attendance at Seminars, Conferences and Training

- i In the event of a Councillor being authorised by Council resolution or policy to attend a seminar, conference, training or the like, if the most appropriate mode of travel is by vehicle and a Council vehicle is not available, the vehicle allowance indicated in 3.8.1(ii) shall apply.
- ii In the event of a Councillor being authorised by Council resolution to attend a seminar or conference requiring air travel, Council shall meet the cost of an economy airfare to and from the destination and taxi fares to and from the airport.
- iii In the event of a Councillor choosing to use a private vehicle rather than use a commercial airline service, and the kilometres travelled x the cents per kilometre is greater than the cost of the airfare and taxis, then the amount equivalent to the airfare and taxi costs only shall be reimbursed to the Councillor. Similarly this section shall apply to the use of a private aircraft by Councillors.
- iv Councillors may attend a maximum of three (3) additional conferences to those approved by Council resolution.
- v Consent to attend seminars be delegated to the Mayor and General Manager in accordance with the provisions of the Local Government Act 1993.

Walgett Shire Council

3.8.6 Inspections

Council will provide transport for Councillors attending inspections in conjunction with Council's Review Committee.

**3.9 Expenses for Seminars, Conferences and Training**

Attendance by Councillors on training, educational courses, conferences and seminars will be agreed to where mutual benefit is derived by the Councillors and the Council in such attendance in achieving the objectives set by Council.

It is essential where council is paying expenses that the training, educational course, conference or seminar is directly related to the Councillor's civic functions and responsibilities.

- i Council will meet the registration, accommodation, sustenance and travel costs (in accordance with this policy) of Councillors who by Council resolution or policy have been authorised to attend as Council's delegate (or observer) at relevant seminars, conferences or the like which relate to Local Government matters.
- ii Any Councillor who has booked to attend a training, educational course, conference, seminar or the like and subsequently does not attend, without good reason, shall be responsible for all expenses incurred by Council in connection with arranging his/her attendance at such seminar or conference.

**3.10 Reports on Conference Attendance**

Any Councillor attending a conference, seminar, or the like on Council's behalf will be required to submit a written report within six (6) weeks of attending the conference, seminar or the like, for circulation to non-attending Councillors and relevant staff, detailing the salient points of interest to Walgett Shire Council. The reports shall be submitted to the General Managers Secretary and included in the next calendar month Council Meeting Business Paper.

**3.11 Care and Other Related Expenses**

The DLG Guidelines do not define this expense type, but the concept of covering these types of expenses supports the principle of participation, equity and access.

This type of expense is not included in the existing policy, as it is not applicable at this stage. The policy is reviewed on an annual basis and a provision could be inserted at a future policy review.

Walgett Shire Council

## **4. PROVISION OF EQUIPMENT AND FACILITIES**

### **4.1 Standard of Provision of Equipment and Facility**

Councillors may be provided with, or access to, a computer and associated peripherals for civic purposes only where there is a substantial public benefit. Specifications and configurations shall be consistent with the standard of equipment provided to professional officers within Council, at a standard set by the General Manager.

### **4.2 Monetary Limits of Provision of Equipment and Facility**

Council has provided a standard for the provision of equipment and facilities to the Mayor and Councillors and accordingly the setting of monetary limits is considered not practicable or appropriate.

The Mayor

- A Council shall provide the Mayor with secretarial support for the purpose of:
  - i Answering correspondence received from residents/ratepayers in relation to the business of the Council
  - ii Replies to invitations to attend functions/gatherings received in his/her capacity as Mayor
  - iii Communications to Council staff on official business
  - iv Arranging civic functions, citizenship ceremonies and the like.
- B Council shall provide to the Mayor use of a suitable motor vehicle in accordance with the Council's motor vehicle policy for professional use
- C The Mayor is entitled to all the benefits provided to a Councillor.

### **4.3 The Deputy Mayor**

In accordance with the provisions of the Local Government Act 1993, Council may elect from one of its members a Deputy Mayor, and in the event of a Deputy Mayor being elected by Council, Council shall vote each year a Deputy Mayoral allowance which shall be deducted from the Mayoral allowance and paid in accordance with the provisions of the Local Government Act 1993 and the limits determined by the Remuneration Tribunal.

Walgett Shire Council

#### 4.4 Councillors

- A Council shall provide secretarial support for Councillors for the following purposes:
- i Answering correspondence received from residents/ratepayers in relation to the business of Council
  - ii Reply to invitations and attend functions/gatherings received in their capacity as Councillor
  - iii Under no circumstances shall Council permit the facilities provided to be used for the initiation of circular type letters without prior authority of the Council being obtained.
- B Council shall provide meals on day of Council Meetings and official dinners, light refreshments at committee and workshop meetings.
- C Council shall meet all Councillors' costs in the printing and posting of correspondence in response to representations from the residents and ratepayers of the Shire, with the exception of circular type letters.
- D Councillors will be provided with protective clothing and equipment where necessary.
- E Council will provide Councillors' insurances required in carrying out their civic office functions.

#### 4.5 Election Material

Under no circumstances shall Councillors use the secretarial services, council facilities, equipment and services provided to produce election material or for any other political purposes in association with Local, State or Federal Government elections.

#### 4.6 Provision of Telephone, Faxes, Computers etc

To ensure Councillors are accessible to the residents and ratepayers of the Shire necessary equipment may be supplied by the Council. Private usage costs, (i.e. not business calls on Council's behalf), are to be borne by the individual Councillors (refer to Clause 5.2 of the policy).

#### 4.7 Legal Assistance Provisions and Expenses

1. Legal assistance will be provided to Councillors in the event of any inquiry, investigation or hearing into the conduct of a Councillor by the Independent Commission Against Corruption, Office of the Ombudsman, Department of Local Government, Police, Director of Public Prosecutions and the Local Government Pecuniary Interest Tribunal.
2. Legal assistance will be provided to Councillors in respect to legal proceedings being taken against a Councillor arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor.

Walgett Shire Council

3. Legal assistance will be provided to Councillors in respect to legal proceedings being taken against a Councillor that challenge the validity of the election of that Councillor to civic office.
4. Legal assistance will be provided to Councillors in respect to legal proceedings being taken against a Councillor by a person who is, as a result partly or wholly of those proceedings, subsequently declared to be a vexatious litigant.
5. Council shall reimburse such Councillor, after the conclusion of such inquiry, investigation, hearing or proceedings (including any appeal), for all legal expenses properly and reasonably incurred, including the cost of proceedings for the recovery of costs against the other party to the proceedings, on a solicitor/client basis.
6. Legal assistance will be provided subject to the following conditions:
  - (a) The Councillor diligently pursues the recovery of any costs which he or she is awarded in the proceedings.
  - (b) The amount of such reimbursement is reduced by the amount of any moneys recovered by the Councillor on any basis.
  - (c) Upon any recovery being made after reimbursement by Council, the amount recovered is paid to Council.
  - (d) The Councillor submits a statutory declaration which details his or her contributions to legal bills and any contributions received in respect to such matters.
  - (e) The inquiry, investigation, hearing or proceedings results in a finding in favour of the Councillor.
7. No further payment is to be made for defamatory matters upon commencement of Court proceedings where the Councillor(s) is the Plaintiff.
8. Council shall not reimburse or provide for legal assistance to be provided in respect of legal proceedings initiated by the Mayor and/or Councillors in any circumstances. Nor shall legal expenses be met for a Councillor defending any action in a matter not arising directly as a result of his or her civic duty.

## **5. OTHER MATTERS**

### **5.1 Returning of Facilities and Equipment by Councillors**

The property provided to Councillors remains the property of Council. Councillors must return all the property on completion of the term of office, extended leave of absence or at the cessation of their civic duties.

### **5.2 Private Benefit**

Councillors shall not generally obtain private benefit from the provision of equipment and facilities, nor from travel bonus or any other such loyalty schemes. However, it is acknowledged that incidental use of council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where more substantial private use occurs, Council may request payment to be made to cover the level of that private use.

### **5.3 Policy Availability**

The General Manager shall ensure that a copy of the adopted policy on Councillors' fees, expenses and facilities is available for public exhibition on Council's Website and at Councils Walgett office.

The General Manager is granted authority to make available to any person a statement of the costs associated with Councillors' fees, expenses and facilities at any time.

### **5.4 Review of Policy**

Council may amend this policy at any time, subject to the requirements of the Local Government Act 1993 being met.

Within five (5) months after the end of each financial year, Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor (if there is one) and the other Councillors in relation to discharging the functions of civic office, in accordance with Sections 252 and 253 of the Act.

Council must review and submit its policy to the Director-General of the Department of Local Government within 28 days of adoption by council prior to 30 November each year, even if it proposes to adopt the unchanged policy.

Walgett Shire Council

**5.5 Reporting Obligations**

Section 428 of the Local Government Act 1993 requires Council to include in its Annual Report to the Minister:

- Council's policy on the provision of facilities for, and the payment of expenses to the Mayor and Councillors.
- The total amount of money expended during the year on providing those facilities and paying those expenses.
- Additional information required by Clause 217 of the Local Government (General) Regulation 2005.

**5.6 Policy Reviews**



ATTACHMENT TWO – Draft Policy



## **PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS**

Adoption Date:

Review Date: 30 September 2009

Responsible Officer: General Manager

### **PART 1 INTRODUCTION**

#### **Purpose of the Policy**

The purpose of the policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

#### **Policy Objectives**

The objectives of this policy are:

- To ensure that the details and range of expenses paid and facilities provided to the Councillors by the Council are clearly and specifically stated, fully appropriate to the importance of office, are consistently applied and transparent, and are acceptable to the community.
- To ensure that the Councillors are reimbursed for expenses reasonably incurred in the performance of their roles as a Councillor.
- To ensure that election to Council is open to all by ensuring that no one would be financially or otherwise disadvantaged in undertaking the civic duties of a Councillor.

#### **Making and Adoption of the Policy**

Councils are required on an annual basis to review and submit their policy to the Director General of the Department of Local Government within 28 days of adoption by Council. Council must adopt a policy each year even if the policy is the same as its existing policy. Current policies must be submitted by 30 November each year.

Before adopting or amending a policy, Council must give public notice of its intention and allow at least 28 days for public submissions. All submissions received will be considered and appropriate changes made prior to the adoption of the policy.

Council is not required to give public notice of a proposed amendment if the amendment is not substantial. The term "not substantial" should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5%. It also means minor changes to the standard of the provision of equipment and facilities. Any new category of expenses, facilities and equipment included in the policy will require public notice.

new category of expenses, facilities and equipment included in the policy will require public notice.

### **Reporting Requirements**

Section 428 of the *Local Government Act 1993* requires Council to include in their annual report:

- The council's policy on the provision of facilities for, and the payment of expenses to, the Mayor and Councillors
- The total amount of money expended during the year on providing those facilities and paying those expenses
- Additional information as required by the Local Government (General) Regulation 2005

The additional annual reporting information is for the purposes of transparency and accountability. Council is now required to report separately on the following:

- The total cost of expenses and the provision of facilities for the Mayor and all Councillors
- The cost of the provision of dedicated office equipment allocated to Councillors on a personal basis such as laptop computers, mobile phones, telephones and facsimile machines and internet installed in the Councillors' home (including line rental and internet access)
- The cost of phone calls including mobiles, home located landlines, facsimile and internet services
- Spouse/partner/accompanying person expenses (limited to circumstances outlined on page 14 of the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director General of Department of Local Government)
- Conference and seminar guidelines
- Training and skill development expenses
- Interstate travel expenses (including subsistence and out-of-pocket expenses)
- Overseas expenses (including subsistence and out-of-pocket expenses)
- Care and other related expenses (of dependants to enable a councillor to undertake his or her civic functions)

In addition to the statutory requirements, Councils should report costs where they are significant. That is, the provision of facilities and equipment that are above what would normally be required for the day to day running of the Council.

### **Legislative Provisions**

- Section 252-254 of the *Local Government Act 1993* – Payment of expenses and provisions of facilities
- Section 12 of the *Local Government Act 1993* – What information is publicly available?
- Section 23A of the *Local Government Act 1993* – Director-General's guidelines
- Section 428 of the *Local Government Act 1993* – Annual Reports
- Clause 217 of the Local Government (General) Regulation 2005 – Additional information for inclusion in Annual Reports
- Clause 403 of the Local Government (General) Regulation 2005 – Payment of expenses and provision of facilities

### **Other Government Policy Provisions**

- Department of Local Government Guidelines issued under section 23A of the *Local Government Act 1993*
- Department of Local Government Circulars to Councils:
  - Circular 05/08 Legal assistance for Councillors and Council employees
  - Circular 02/34 Unauthorised use of Council resources
- Model Code of Conduct for Local Councils in NSW, Use of council resources being particularly relevant
- ICAC Publication – No Excuse for Misuse, preventing the misuse of council resources

### **Approval arrangements for claiming expenses and use of facilities**

The General Manager, in consultation with the Mayor, is responsible for authorising the payment of expenses or the provision of facilities in accordance with this policy. If there is disagreement the matter is to be referred to Council for determination.

## **PART 2 PAYMENT OF EXPENSES**

### **General Provisions**

#### **Payment of expenses**

Walgett Shire Council is committed to ensuring that Councillors are reimbursed for expenses reasonably incurred in the performance of their duties so that they are not financially or otherwise disadvantaged in undertaking their civic duties.

All expenses and costs must be claimed in accordance with this policy.

Council operates a purchase order system that will enable most expenses associated with attendance at conferences, seminars and training to be directly invoiced to Council. This system can be used to cover expenses relating to accommodation, registration and travel. Where possible, provision will be made for the cost of meals and incidental costs not covered by registration fees, to be invoiced directly to Council.

To seek reimbursement for expenses not directly invoiced to Council, Councillors should submit a Claim for Reimbursement of Expenses form within four (4) weeks of the expense being incurred. The Claim form must be itemised and should not be general in nature. All appropriate receipts and tax invoices must be attached. Reasonable out of pocket or incidental expenses may not require specific receipts provided that it can be demonstrated that the expenses were actually incurred, not general in nature and the Councillor certifies that the expenditure was for the purpose intended. Generally, it will be expected that a tax invoice or receipt will accompany all claims for reimbursement.

Reasonable out of pocket expenses will be limited to parking fees, taxi fares, internet charges, telephone calls, meals not included in the conference program and the reasonable cost of drinks accompanying a meal. Council will not meet the cost of laundry or the cost for the use of a bar fridge in a hotel room.

The Mayor and Councillors may request an advance payment in anticipation of expenses to be incurred in attending conferences, seminars and training away from home. In most cases the advance payment will be in the form of petty cash and will need to be pre arranged with the General Manager. On their return, Councillors must reconcile all expenses against the cost of the advance within two (2) weeks. Generally, it is expected that tax invoices and/or receipts will accompany all reconciliations of advance payments.

A general expenses allowance will not be available under any circumstance.

#### **Establishment of monetary limits and standards**

The limit for daily accommodation, meal and incidental expenses will be in accordance with the Australian Taxation Office determination in relation to what are reasonable expenses, provided that such expenses are subject to a period of stay not exceeding the period for the conference or authorised business plus one day each way of travel (if required as determined by the General Manager and Mayor).

The Taxation Determination is available on the ATO legal database and is reviewed and updated annually.

## **Spouses and Partner Expenses**

On occasions it is considered appropriate for partners (meaning spouses, partners or accompanying persons ie a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor) of Councillors to attend official Council functions within the local government area that are of a formal and ceremonial nature. Such functions would be those that a Councillor's partner could be reasonably expected to attend. Examples include (but are not limited to) Australia Day award ceremonies, Citizenship ceremonies, civic receptions and charitable functions for charities formally supported by Council. In these instances certain costs incurred by the Councillor on behalf of their partner are properly those of the Councillor in the performance of his or her function and Walgett Shire Council will meet the reasonable costs of the partner attending these functions.

When the Mayor (or a Councillor representing the Mayor) attends an official function of Council or an official ceremonial duty outside the local government area, but within the State, and it is considered appropriate for their spouse to attend, Council will also meet the reasonable costs of the spouse.

The payment for partners to attend appropriate functions as permitted above are limited to the ticket, meal and/or the direct cost to attend the function. Peripheral expenses incurred by partners such as grooming, special clothing and transport are not considered reimbursable items.

Where partners accompany Councillors interstate or overseas, or to seminars, conferences and the like, the Councillor will be personally responsible for all additional costs associated with their partner's attendance, including travel, accommodation, meals, partner tours etc. The exception is the Annual NSW Shires Association Conference where Council will cover the cost of registration and attendance at the official conference dinner of a spouse, partner or accompanying person.

## **Specific Expenses for Councillors**

### **Attendance at seminars and conferences**

Requests to attend seminars and conferences should generally be in writing outlining the benefits for Council. The approval for discretionary trips and attendance at conferences, seminars and training, should be approved by a full meeting of the Council. If this is not possible, then the approval must be given jointly by the Mayor and the General Manager.

After returning from a conference or seminar, Councillors may provide a written report to Council on the aspects of the conference or seminar relevant to Council business and/or the local community.

Where attendance at a conference or seminar has been approved, Council will pay the conference registration fee including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council. The reasonable cost of transportation and accommodation associated with the attendance at the seminar or conference, and meals when they are not included in the conference fee, will also be met.

All Councillors are entitled to attend the Annual Conference of the NSW Shires Association and the Annual C Division Conference of the Association. All female Councillors are entitled to attend the Annual Australian Local Government Women's Association NSW Branch Conference. Apart from the forementioned, Councillors will generally be limited to

attendance at a maximum of three additional conferences or seminars in any Financial Year.

### **Training and educational expenses**

Walgett Shire Council supports and encourages an active learning process and skills development of Councillors to ensure that they carry out their functions as effectively as possible. It is essential where Council is paying these expenses that the training or educational course is directly related to the Councillor's civic functions and responsibilities. Requests to attend training should be in writing outlining the benefits for Council. The approval for training must be given jointly by the Mayor and the General Manager who will consider the appropriateness of the training for each Councillor and the budgetary constraints.

The General Manager will arrange training and briefing sessions for newly elected Councillors as required by the Department of Local Government. The cost to provide this training is provided for in the Annual Budget.

### **Travel arrangements and expenses**

All travel by Councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport subject to any personal medical considerations.

It may be necessary for Councillors to travel both within and outside the local government area in order to represent Council at meetings or events, attend conferences or undertake training. With limited public transport the majority of travel will be by motor vehicle. Council will provide a motor vehicle where possible. Where a Council motor vehicle is not available Councillors may be requested to use their own motor vehicle. Travel arrangements shall be agreed between the General Manager and the Councillor prior to the travel taking place.

Where Councillors use their own private vehicle as part of their official duties they will be reimbursed at a rate determined by the Notional Agreement Preserving the Local Government (State) Award 2004 for Vehicle Allowance and should claim reimbursement within four (4) weeks. Official duties include: meetings of Council and Council Committees (whether a Committee member or not); Council inspections; civic functions; Council related meetings, seminars and engagements; meetings with staff and constituents on Council business.

When a Council vehicle is required by a Councillor travelling both within and outside the local government area, the vehicle must be booked through the General Manager. If the vehicle is required before 8.15am the Councillor must make arrangements with the General Manager to collect the vehicle the evening before. Likewise if the Councillor returns after 5.00pm the Councillor must arrange with the General Manager to return the vehicle the following morning.

The driver is personally responsible for all traffic or parking fines incurred while travelling in private or Council vehicles on Council business.

All travel to meetings and events outside the Shire should only be undertaken with the General Managers consent.

Travel to destinations outside NSW requires the joint approval of the General Manager and Mayor. The application for approval should include full details of the travel, including

itinerary, costs and reasons for the travel. Council will provide a motor vehicle where possible.

In some circumstances it may be necessary for Councillors to travel by air due to the remoteness of the Walgett Shire. Travel by air is only available with the consent of the General Manager.

#### **Telecommunication expenses and related**

On request, Council will supply a Councillor with a combined phone/fax/answering machine.

On request, Council will supply a Councillor with a laptop computer and a printer.

On request, Council will install a telephone line in a Councillors residence.

Councillors are entitled to the payment of the rental cost of one telephone line.

Councillors will receive an allowance of \$60 per month to cover phone call costs. Should Councillors business related costs exceed this amount they will need to submit a claim for reimbursement along with evidence of total incurred cost.

A Councillor who has an internet service and email address which is available for Council business will receive an allowance of \$30 per month.

#### **Care and other related expenses**

Councillors can claim for the reimbursement for the cost of carer arrangements, including childcare expenses and the care of the elderly, disabled and/or sick immediate family members of Councillors to allow Councillors to undertake their Council business obligations. A limit of \$2,000 per annum per Councillor is allowed.

The reimbursement for care and other related expenses should be calculated at the end of each month and submitted to Council within four (4) weeks for reimbursement.

A limit of \$2,000 per annum will also be available for related expenses associated with the special requirements of Councillors such as disability and access needs, to allow performance of normal civic duties and responsibilities.

#### **Insurance expenses and obligations**

Pursuant to Section 382 of the *Local Government Act 1993* Councillors will receive the benefit of insurance cover for the following matters arising out of their civic duties:

- Public Liability – for matters arising out of Councillors performance of their civic duties and/or exercise of their council functions
- Professional Indemnity – for matters arising out of Councillors performance of their civic duties and/or exercise of their council functions.
- Personal injury – for injury whilst on council business. Note that councillors are not covered by workers compensation payments or arrangements.
- Travel insurance – for approved interstate and overseas travel on council business.

**Legal expenses and obligations**

Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are to be distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. An example of the latter are expenses arising from an investigation as to whether a Councillor has acted corruptly.

Council may disburse money only if the disbursement is authorised by the Local Government Act 1993. Therefore, if a Councillor has a legal matter that they believe merits assistance, then the matter is to be reported to Council for determination. In considering such a matter Council will be guided by the contents of Department of Local Government circular 05/08 "Legal assistance for councillors and council employees".



## **PART 3 PROVISION OF SERVICES AND FACILITIES**

### **Provision of facilities generally**

Walgett Shire Council will provide facilities, equipment and services that are appropriate to support the Mayor and Councillors in undertaking their roles as elected members of Council. Facilities will be provided to ensure the safety of Councillors. Council facilities, equipment and services are not to be used to produce election material or for any other political purpose. Councillors should not obtain private benefit from the provision of equipment or facilities including any travel bonus schemes or other such loyalty programs.

### **Private use of equipment and facilities**

It is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where more substantial private use has occurred the Councillor must reimburse Council for the actual cost to council of the private use in question. This reimbursement will be made on a full cost recovery basis and in accordance with Councils Schedule of Fees and Charges.

### **Provision of Equipment and Facilities for Mayor and Councillors**

#### **Office Equipment**

Councillors will be provided access to photocopiers, facsimile machines, telephones and other relevant office equipment, located at the Council Administration building in Walgett, for official Council business.

#### **Dedicated computer equipment**

An internet connected computer dedicated for use by Councillors will be provided at the Council Administration building in Walgett for official Council business.

#### **Office space and meeting rooms**

Councillors wishing to conduct formal meetings that are related to Council business will have access to meeting rooms at the Council Administration building in Walgett. All bookings are to be made through the Executive Assistant to General Manager.

#### **Secretarial and administration support**

All Councillors will be provided with secretarial support so that official duties can be carried out in a professional manner. Secretarial support will be provided upon request to the General Manager.

#### **Postage**

Council will meet the cost of all official postage provided mail is directed through the Council mailing system.

#### **Business cards**

All Councillors will be issued with business cards for use during their official duties.

**Filing**

On request, a four drawer filing cabinet will be provided for use in a Councillor's residence.

**Council vehicle**

Councillors will have access to a Council pool car, if available, for use on official council business. All bookings for Council vehicles are to be made through the Executive Assistant to General Manager.

**Meals and refreshments**

Food and refreshments may be provided for official Council meetings and functions as determined by the General Manager.

**Name badges**

All Councillors will be issued with a Council name badge.

**Stationery**

Council shall provide Councillors with stationery including writing pads, pens, diaries, folders, paper for facsimiles and printers, and ink cartridges.

**Provision of Additional Equipment and Facilities for Mayor**

The Mayor will be provided with additional facilities to those identified for Councillors to recognise the special role, responsibilities and duties of the position both in the Council and the community.

**Provision of a dedicated motor vehicle**

The mayor will be provided a fully serviced, fuelled and maintained vehicle to a standard equivalent to a Holden Berlina or Falcon Fairmont for business use.

**Mobile phone**

The Mayor will be provided with a mobile phone as specified by the General Manager. A limit of \$200 per month applies to the maximum cost to be borne by Council.

**Furnished mayoral office**

The Mayor will be provided with a dedicated office located in the Administration building in Walgett. A refreshment cabinet will be maintained and stocked by Council within budgetary constraints. The Mayor will have access to a computer located in the Mayoral office.

## **PART 4 OTHER MATTERS**

### **Acquisition and returning of facilities and equipment by Councillors**

On the completion of their term of office, extended leave of absence or the cessation of civic duties, Councillors are required to return all equipment and other facilities issued by Council within four (4) weeks

Dedicated phone lines issued for official Council business will be disconnected within seven (7) working days of the cessation of duties.

Councillors will be given the option to purchase Council equipment previously allocated to them at the cessation of their duties at an agreed fair market price or written down value.

### **Status of the Policy**

Adopted  
Amended

#### **4. CODE OF CONDUCT**

**REPORTING SECTION:** General Manager  
**AUTHOR:** Ray Kent - General Manager  
**FILE NUMBER:** 145/02/04/00

---

##### **Summary:**

Under section 440 of the Local Government Act 1993 Councils must adopt a Code of Conduct that incorporates the provisions of the Model Code of Conduct produced by the Department of Local Government. Council has a Code of Conduct that incorporates all the provisions of a Model Code which took effect on 1<sup>st</sup> January 2005. The Department of Local Government has released a new Model Code of Conduct that is effective from 20<sup>th</sup> June 2008. Council must now adopt a Code that contains all the provisions of the Model Code.

##### **Discussion (including issues and background):**

Attached are:

1. Circular 08-38 from the Director General of the Department of Local Government, entitled "Revised Model Code of Conduct for Local Councils in NSW", which overviews the changes made to the Model Code and advises of a Council's obligation to adopt a new Code of Practice which incorporates all the provisions of the new Model Code
2. A four page "Questions and Answers" document from the Department of Local Government in respect of the new Code
3. A proposed new Code of Conduct for Walgett Shire Council which incorporates all the provisions of the new Model Code of Conduct and which does not include any additional provisions

Apart from restructuring and editorial rewriting, notable new provisions in the Code are as follows:

1. A definition is provided (see 7.16) of a "significant non-pecuniary conflict of interest"
2. A councillor is required to treat a political donation in excess of \$1,000 in the same way as a "significant non-pecuniary conflict of interest"
3. A new Part has been added to the Code which contains complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer
4. The general manager or Mayor will no longer be members of the conduct review committee. They may only act in an advisory capacity when invited to do so
5. Council must appoint three (3) or more persons to act in the role of conduct reviewers and a conduct review committee must consist of three (3) or more members. A sole conduct reviewer can now be chosen from the appointed persons to review complaints alleging breaches of the Code of Conduct

Apart from adopting the new Code of Conduct it will be necessary for Council to proceed to appoint conduct reviewers as well as determine the term for which they will be appointed and whether they will receive a fee for service or simply have all out of pocket expenses met. The starting point in respect of a determination in respect of each of these matters is provided by the following recommendations.

**Relevant Reference Documents:**

Local Government Act 1993, Model Code of Conduct for Local Councils in NSW June 2008

**Stakeholders:**

Council officials

**Financial Implications:**

Minor

**Recommendations:**

**That:**

1. The attached "Walgett Shire Council Code of Conduct" be adopted.
2. Council make a public call for persons interested in being appointed as conduct reviewers.
3. A report on the outcome of the public call be placed before either the September or October Ordinary Meeting of Council.
4. Conduct reviewers be appointed for a term of 12 months, with the possibility for re-appointment. Such appointments to be made at the same Council meeting at which Council determines delegates, representatives and members in respect of external bodies.
5. Council determines not to pay conduct reviewers a fee but rather to meet all out of pocket expenses.
6. Council's Solicitors, Booth Brown Samuels and Olney, be invited to nominate a Solicitor from the firm to be a conduct reviewer.

" Attachments: DLG Circular 08-38; "Questions and Answers" document (DLG June 2008); Model Code of Conduct for Walgett Shire Council



Circular No. 08-38  
Date 20 June 2008  
Doc ID. A118731

Contact Lyn Brown  
02 4428 4161  
lyn.brown@dlg.nsw.gov.au

## REVISED MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

The Model Code of Conduct for Local Councils in NSW (Model Code) first came into effect on 1 January 2005 and applies to general purpose councils and county councils.

Under section 440 of the Local Government Act 1993 councils must adopt a code of conduct that incorporates the provisions of the Model Code (or is consistent with the Model Code). In addition, councils were required to establish conduct committees to consider relevant complaints about the conduct of councillors and/or the general manager.

The Department of Local Government has now completed a review of the Model Code that included the establishment of a reference group to assist with the review, a call for written submissions, a survey of councils for feedback on the implementation of the Model Code and consultation through focus groups and telephone interviews with local council representatives and specific industry groups.

The outcome of the review is a revised Model Code that will take effect from 20 June 2008. This is achieved by an amendment to the *Local Government (General) Regulation 2005* that prescribes the Model Code. The amendment to the Regulation will appear in the Government Gazette on 20 June 2008. \*

A separate email will be sent to all councils and county councils with a word version copy of the Model Code to assist councils with the changes to their codes.

The Model Code is available on the Department's website.

[http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Model\\_Code\\_of\\_Conduct\\_June\\_2008.pdf](http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Model_Code_of_Conduct_June_2008.pdf)

### **Changes to the Model Code**

The following are the main changes to the Model Code:

Overall:

Department of Local Government  
5 O'Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541  
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209  
E [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au) W [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au) ABN 99 567 863 195

\* Now see Government Gazette No. 76 of 27 June 2008

2

- The Code has been organised in three Parts: Context, Standards of Conduct and Procedures.
- Additional sections have been added on complaint handling, complaint assessment criteria, and operational guidelines for conduct review committees/reviewers. These sections are contained in Part 3, Procedures.
- Aspirational language is now only contained in the Part 1 section of the Model Code. The provisions in Part 2, Standards of Conduct, are now phrased in operational language.
- Administrators have been added to the provisions that apply to councillors and included in the definition of council officials.

Specific sections and Parts:

Part 1: Context

- The introduction has been amended to include a reference to the relationship of the Model Code to section 440 of the Act.
- Additional definitions have been added for the conduct review committee, conduct reviewer, conflict of interests, misbehaviour, person independent of council and personal information.
- The definition of delegates of council has been amended to clarify that it applies to individual members of bodies that exercise a function delegated by council.
- The key principle of 'objectivity' has been amended to 'impartiality'.
- Guide to ethical decision making has been moved from the general conduct obligations section into the context Part of the Model Code.
- The guide to ethical decision making now includes additional information to assist council officials with political donations and conflict of interests situations.

Part 2: Standards of Conduct

- Council officials are reminded of the sanctions for failure to comply with an applicable provision of the standards of conduct.

General Conduct Obligations

- Previous clause 5.1 (now clause 6.1) has been worded so that it applies to all council officials and not just councillors. It is consistent with Schedule 6A of the Act.
- An additional clause has been added (6.4) that requires councillors to comply with council resolutions requiring them to take action as a result of a breach.

Conflict of Interests

- This section of the Model Code has been substantially rewritten. The clauses have been re-ordered and duplicate clauses removed.
- New provisions relating to non-pecuniary conflicts of interests include the addition of a clause (7.12) to provide that the political views of a councillor do not constitute a private interest and a clause (7.11) that provides that the matter of a conduct review committee/reviewer report to council is not a private interest.

3

- The code provides a clearer definition of significant non-pecuniary conflicts of interests – clause 7.16.
- The code now clarifies the action that is required to be taken if a council official has a non-pecuniary conflict of interest. This provides actions for significant and less than significant non-pecuniary conflict situations, clauses 7.17 and 7.18.
- (New) clause 7.19 provides that council staff should manage any non-pecuniary conflicts of interests in consultation with their managers.
- The political donations provisions now require councillors to treat a political donation in excess of \$1000 in the same way as a significant non-pecuniary conflict of interest. Councillors are required to determine whether or not contributions below \$1000 create a significant conflict of interest.

#### Personal Benefit

- This section of the Model Code has also been substantially rewritten. The clauses have been re-ordered and duplicate clauses removed.
- Definitions of token gifts and benefits and gifts and benefits of value have been provided at the beginning of the section. These have been substantially rewritten to provide greater clarity around what is and what is not a gift/benefit of value or of token value.
- (Old) clauses 7.1, 7.2, 7.3 and 7.5 have been rewritten into (New) clause 8.3.
- (Old) clause 7.10 has been removed as the declaration of gifts totalling over \$500 by councillors and designated persons is a requirement in the Act and does not need to be replicated in the Model Code.

#### Relationship Between Council Officials

- The first four inappropriate interactions (clause 9.7) have been collapsed into two that advise about approaches between councillors, administrators and staff in relation to individual staffing matters and allow for discussion on broad industrial policy issues.
- An additional interaction has been provided that advises that it is inappropriate for councillors and administrators to make personal attacks on council staff in a public forum.
- Language has been changed to make it clear that inappropriate interactions are a breach of the code – this was previously implicit only.
- The clause on the role of the Mayor has been removed as it is no longer seen as necessary.

#### Access to Information and Council Resources

- (Old) clauses 9.1 to 9.13 have been tidied up to ensure they are clear.



**Reporting Breaches**

- The content of this section has changed. This section only contains provisions that relate to the reporting of allegations of breaches of the code of conduct. The previous section included complaint handling and sanction information. That information is now contained in Part 3 of the Model Code.
- A provision has been added to make it clear that anyone can make a complaint alleging a breach of the code of conduct.
- The protected disclosures clauses have been modified to ensure that they are consistent with the Protected Disclosures Act.

**Part 3: Procedures**

This is a new part of the Model Code. This Part contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer.

The complaint handling requirements and the complaint assessment criteria now provide for the use of a range of methods for the resolution of complaints, give clearer guidance about the referral of complaints to the conduct review committee/reviewer, clarify the role of the Mayor and the general manager in relation to complaint management and provide for annual reporting to council by the general manager on a summary of complaints under the code of conduct.

Councils can now have conduct review committees or individual reviewers undertake enquiries into breach allegations. Members of these committees or the sole reviewers will now be independent of council and can act in the role for more than one council.

Conduct review committees/reviewers are required to act in accordance with the operating guidelines that are provided in the Model Code.

The general manager is now required to report annually to council on code of conduct complaints.

**Model Code Guidelines and Education Package Facilitator's Guide**

The Department is currently updating the guidelines that assist in interpreting the Model Code. These will be re-issued shortly.

The Model Code Education Package Facilitator's Guide will also be updated to incorporate the new provisions. Only the changed sections and CD will be re-issued to councils to update the current resource that was distributed to all councils in 2005.

**Transitional arrangements**

Councils will now need to review their codes of conduct to ensure that they adopt the provisions of the Model Code that is effective from 20 June 2008. Councils are reminded that their codes may include provisions that supplement the Model Code and provisions more onerous than those contained in the

Model Code. However, any supplementary or more onerous provisions will have no effect to the extent that they are inconsistent with the Model Code.

Councils will need to deal with any complaints that are currently on foot in accordance with the procedures established in their current code of conduct. Once councils have adopted the provisions of the revised Model Code, any complaints received about conduct that occurred under their previous code of conduct will need to be dealt with in accordance with the standards that applied in the code at that time. However, councils may choose to use the new procedural arrangements for managing the complaints that are contained in the revised Model Code for those complaints.

A question and answer document is provided with this circular to assist councils in implementing the changes to the code of conduct complaint handling processes.

A handwritten signature in black ink, appearing to read 'Garry Payne', with a stylized flourish extending to the right.

**Garry Payne AM**  
**Director General**



## REVISED MODEL CODE OF CONDUCT – JUNE 2008

### QUESTIONS AND ANSWERS

#### **What standards of conduct have changed?**

The following standards have been added or changed in the revised Model Code:

##### *General conduct obligations:*

- An additional clause has been added that requires councillors to comply with council resolutions directing them to take action as a result of a breach.

##### *Conflict of interests obligations:*

The clauses have been re-ordered and duplicate clauses removed. Key changes include:

- New provisions relating to non-pecuniary conflicts of interests that provide that the political views of a councillor do not constitute a private interest; and the matter of a conduct review committee/reviewer report to council is not a private interest.
- Clarification of the action that is required to be taken if a council official has a non-pecuniary conflict of interest. This provides actions for significant and less than significant non-pecuniary conflict situations.
- A definition of "significant non-pecuniary conflict of interest".
- Provision that council staff should manage any non-pecuniary interests in consultation with their managers.
- Political donations provisions that require councillors to treat a political donation in excess of \$1000 in the same way as a significant non-pecuniary conflict of interest. Councillors must also determine whether or not contributions below \$1000 create a significant conflict of interest.

##### *Personal benefit obligations:*

The clauses have been re-ordered and duplicate clauses removed. The key change is:

- Definitions of token gifts and benefits and gifts and benefits of value have been included at the beginning of the section. These have been substantially rewritten to provide greater clarity around what is and is not, a gift/benefit of value or of token value.

##### *Relationship between council officials obligations:*

- Refinement of the provisions relating to inappropriate interactions that advise about interactions between councillors, administrators and staff in relation to individual staffing matters.
- The provisions allow for discussion on broad industrial policy issues.
- An additional provision that advises that it is inappropriate for councillors and administrators to make personal attacks on council staff in a public forum.
- Engaging in inappropriate interactions is now an express breach of the code.

##### *Reporting breaches:*

- A provision has been added to make it clear that anyone can make a complaint alleging a breach of the code of conduct.
- The protected disclosures clauses have been modified to ensure that they are consistent with the *Protected Disclosures Act 1994*.

**Who receives complaints?**

The general manager is the person responsible for receiving complaints alleging a breach of the code of conduct by councillors, council staff, council delegates or council committee members (clause 12.1).

The Mayor is the person responsible for receiving complaints alleging a breach of the code of conduct by the general manager (clause 12.2).

**How have the complaint handling procedures changed?**

Section 12 of the Model Code prescribes the complaint handling procedures to be used by the general manager, the Mayor and the conduct review committee/sole conduct reviewer.

The complaint handling procedures now provide a range of options for managing a complaint alleging a breach of the code of conduct (section 12). Alternate dispute resolution strategies are provided for. It is expected that the conduct review committee/sole conduct reviewer will deal with the more serious complaints and/or complaints about repeated conduct standards breaches.

In section 13, the Model Code prescribes a set of criteria that must be taken into account in determining how to deal with a complaint. The complaint assessment criteria are to be used by the general manager, the Mayor and the conduct review committee/sole conduct reviewer.

**When is the complaint assessment criteria used?**

The complaint assessment criteria are to be used by the general manager or Mayor when they first receive a complaint to determine the most appropriate course of action for handling the complaint (section 13).

Where it is assessed that the complaint shall be referred to the conduct review committee/sole conduct reviewer, then the conduct review committee/sole conduct reviewer must conduct its own assessment of the complaint using the criteria provided to determine the appropriate course of action.

**What are the changes to the conduct review committee process?**

The general manager or Mayor will no longer be members of the conduct review committee. They may only act in an advisory capacity to the conduct review committee or sole conduct reviewer.

Conduct reviewers must be independent, qualified persons of high standing in the community who are appointed by council.

The council must appoint 3 or more persons to act in the role as conduct reviewers.

A sole conduct reviewer can now be chosen from the appointed persons to review complaints alleging breaches of the code of conduct.

If a conduct review committee is formed, it must consist of at least 3 members.

The conduct review committee/sole conduct reviewer must undertake its activities in accordance with the operating guidelines provided in the Model Code.

**When are conduct reviewers appointed by council?**

Council should ensure that it undertakes a process to appoint conduct reviewers even though it does not have any complaints on foot. This will ensure that appropriately appointed conduct reviewers are available should a complaint arise which requires referral to a conduct committee/reviewer.



On appointing conduct reviewers, council should determine the term of appointment. This could be on an annual basis and determined in September each year when council confirms its committee memberships.

**Can conduct reviewers act for more than one council?**

Conduct reviewers may act in that role for more than one council.

Conduct reviewers do not need to be residents of the local government area of the council that has appointed them.

Councils may decide to work with their regional organisation of councils or strategic alliance partners to appoint conduct reviewers to act for the member councils. Each member council will need to appoint the conduct reviewers for their council.

**Should council appoint more than 3 conduct reviewers?**

Conduct review committees must consist of 3 or more members. Council should consider appointing more than 3 persons to act as conduct reviewers as circumstances may arise when one or more conduct reviewers are not available to participate in a matter, or may be precluded from considering a matter because of a conflict of interests or a reasonable apprehension of bias.

In such instances, if the council has only appointed 3 conduct reviewers, it will have insufficient persons available to form a conduct review committee. By appointing more than 3 conduct reviewers, the risk of these circumstances arising is minimised.

**Who decides who will comprise the conduct review committee or whether one reviewer will act as a sole conduct reviewer?**

The general manager or Mayor will decide if the review will be undertaken by a sole conduct reviewer or a conduct review

committee and will select the reviewers from the persons appointed by council.

The number of persons who will undertake the review will depend on the nature, complexity and seriousness of the allegations.

For example, a council may have appointed 5 persons to act as conduct reviewers. The general manager or Mayor may receive a complaint that is assessed as requiring referral for review by a conduct review committee or reviewer.

If the matter is serious, the general manager or Mayor may determine to appoint all 5 persons to the conduct committee to determine that particular matter.

If the general manager or Mayor assesses the alleged breach as a reasonably straightforward matter, the general manager may determine to refer the complaint to a sole conduct reviewer.

The general manager or Mayor may then choose, from the persons appointed by council, a reviewer with expertise in relation to the nature of the conduct complained about.

**Are conduct review committee members/sole conduct reviewers paid?**

This is a matter for council. Council may undertake an expression of interest process to call for interested and suitably qualified persons of high standing in the community to nominate to be appointed as conduct reviewers. Council should determine whether it is going to meet out of pocket expenses and/or pay a fee for the service.

**What happens if a conduct reviewer has a conflict of interests?**

When a conduct reviewer cannot participate in a matter because of a conflict of interests, then the general manager or Mayor will select another person to be a member of the conduct review committee or to act as a sole conduct reviewer from those appointed by council.

### **How does the conduct review committee/sole conduct reviewer operate?**

The conduct review committee/sole conduct reviewer is required to undertake its enquiries in accordance with the operating guidelines provided in section 14 of the Model Code.

The general manager or Mayor may only attend conduct review committee meetings when invited and then in an advisory capacity only. Adequate resources must be provided to ensure that the committee/conduct reviewer can operate effectively.

### **What should a report of the conduct review committee/sole conduct reviewer contain?**

Where the conduct review committee/sole conduct reviewer makes enquiries or causes enquiries to be made into a matter, then it must report its findings in writing to the council on completion of these deliberations.

The conduct review committee/sole conduct reviewer should be mindful that there may be a need to protect the identity of the person making the complaint when preparing the report to council.

The report should be a summary of the enquiries undertaken while providing sufficient information for the council to make a determination as to whether the councillor or the general manager has breached the code of conduct.

It is suggested that, as a minimum, the report should contain:

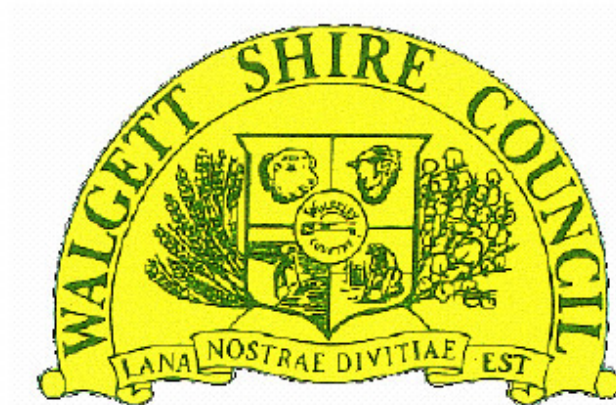
- The nature of the complaint and the standard of conduct that is alleged to have been breached.
- The process undertaken by the conduct review committee/conduct reviewer in assessing and enquiring into the complaint.
- The facts of the matter.
- The findings and the reasons for those findings.
- Any recommendations to council (this now includes any recommendations for a revision of council's policies, procedures and/or the code of conduct).

The report will generally be dealt with in open session of council. Council can only close a meeting to the public if the matter is one that meets the requirements of section 10A(2) of the Act. In most cases, a report from the conduct review committee/sole conduct reviewer will not meet those requirements.

### **How are complainants kept informed?**

The complaint handling procedures in section 12 of the Model Code now require complainants to be kept informed in writing of the outcome of their complaint. Complainants must be advised when:

- enquiries are not to be made into the complaint and why
- the complaint is to be resolved by use of alternative strategies
- the complaint is to be referred to another body or person
- the conduct review committee/sole conduct reviewer has made its findings, the nature and reasons of those findings.



## **Code of Conduct for Walgett Shire Council**

**Adopted: Council Meeting held 15 July 2008**

## TABLE OF CONTENTS

PART 1: CONTEXT.....	3
1 INTRODUCTION.....	3
2 DEFINITIONS .....	4
3 PURPOSE OF THE CODE OF CONDUCT .....	5
4 KEY PRINCIPLES.....	5
5 GUIDE TO ETHICAL DECISION MAKING .....	6
PART 2: STANDARDS OF CONDUCT.....	8
6 GENERAL CONDUCT OBLIGATIONS.....	8
7 CONFLICT OF INTERESTS .....	10
8 PERSONAL BENEFIT .....	14
9 RELATIONSHIP BETWEEN COUNCIL OFFICIALS.....	16
10 ACCESS TO INFORMATION AND COUNCIL RESOURCES .....	18
11 REPORTING BREACHES .....	21
PART 3: PROCEDURES .....	23
12 COMPLAINT HANDLING PROCEDURES & SANCTIONS .....	23
13 COMPLAINT ASSESSMENT CRITERIA .....	28
14 CONDUCT REVIEW COMMITTEE/REVIEWER OPERATING GUIDELINES..	29



## PART 1: CONTEXT

### 1 INTRODUCTION

This code incorporates all the provisions of the 'Model Code of Conduct for Local Councils in NSW – June 2008'.

The Code is made in three Parts: Context, Standards of Conduct and Procedures.

- Part 1: Context, establishes the purpose and principles that are used to interpret the standards in the Code. This Part does not constitute separate enforceable standards of conduct.
- Part 2: Standards of Conduct, set out the conduct obligations required of council officials. These are the enforceable standards of conduct.
- Part 3: Procedures, contains the complaint handling procedures, complaint assessment criteria and the operating guidelines for the conduct review committee/reviewer. This Part should be used to guide the management of complaints about breaches of the Code.

Councillors have two distinct roles under the *Local Government Act 1993*: as a member of the governing body of the council; and as an elected person. Councillors, as members of the governing body, should work as part of a team to make decisions and policies that guide the activities of the council. The role as an elected person requires councillors to represent the interests of the community and provide leadership. The Code sets the standard of conduct that is expected when council officials exercise these roles.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind. Council contractors and volunteers will also be required to observe the relevant provisions of council's code of conduct.

Failure by a councillor to comply with Part 2, the standards of conduct, of council's code of conduct constitutes misbehaviour. The *Local Government Act 1993* provides for suspension of councillors from civic office for up to six months for proven misbehaviour. For further information on misbehaviour refer to Sections 11 and 12 of this Code.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

### 2 DEFINITIONS

The following definitions apply:

the Act	the Local Government Act 1993
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulation 2005</i>

## 2 DEFINITIONS

The following definitions apply:

the Act	the Local Government Act 1993
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulation 2005</i>
conduct review committee	a committee of three or more persons independent of council who are selected from those appointed by council to review allegations of breaches of the code of conduct by councillors or the general manager in accordance with the procedures set out in Sections 12, 13 and 14.
conduct reviewer	a person independent of council who is solely selected from those appointed by council to review allegations of breaches of the code of conduct by councillors or the general manager in accordance with the procedures set out in Sections 12, 13 and 14.
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
council official	includes councillors, members of staff of council, administrators appointed under section 256 of the Act, members of council committees, conduct reviewers and delegates of council
delegate of council	a person or body, and the individual members of that body, to whom a function of council is delegated
designated person	see the definition in section 441 of the Act
misbehaviour	see the definition in section 440F of the Act
personal information	information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion
person independent of council	a person who is not an employee of the council, has no current or ongoing contractual relationship with council in the nature of a contract for services, retainer or contract for the provision of goods of any kind, or is not an employee of any entity with such a contractual relationship.

The term "you" used in the Code of Conduct refers to council officials.

### 3 PURPOSE OF THE CODE OF CONDUCT

The Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions.

The Code of Conduct has been developed to assist council officials to:

- understand 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 the integrity of local government.

### 4 KEY PRINCIPLES

#### 4.1 Integrity

You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

#### 4.2 Leadership

You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the council. *This means promoting public duty to others in the council and outside, by your own ethical behaviour.*

#### 4.3 Selflessness

You have a duty to make decisions in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. *This means making decisions because they benefit the public, not because they benefit the decision maker.*

#### 4.4 Impartiality

You should make decisions on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of council's resources; considering only relevant matters.*

#### 4.5 Accountability

You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others. *This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*

#### 4.6 Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*

#### 4.7 Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *This means obeying the law; following the letter and spirit of policies and procedures; observing the code of conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.*

#### 4.8 Respect

You must treat others with respect at all times. *This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.*

### 5 GUIDE TO ETHICAL DECISION MAKING

5.1 If you are unsure about the ethical issues around an action or decision you are about to take, you should consider these five points:

- Is the decision or conduct lawful?
- Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- What will the outcome be for the employee or councillor, work colleagues, the council, persons with whom you are associated and any other parties?
- Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

#### ***Conflict of interests***

5.2 If you are unsure as to whether or not you have a conflict of interests in relation to a matter, you should consider these six points:

- Do you have a personal interest in a matter you are officially involved with?
- Is it likely you could be influenced by a personal interest in carrying out your public duty?
- Would a reasonable person believe you could be so influenced?
- What would be the public perception of whether or not you have a conflict of interests?
- Do your personal interests conflict with your official role?
- What steps do you need to take and that a reasonable person would expect you to take to appropriately manage any conflict of interests?

***Political donations and conflict of interests***

- 5.3 Councillors should take all reasonable steps to identify circumstances where political contributions may give rise to a reasonable perception of influence in relation to their vote or support.

***Seeking advice***

- 5.4 Remember – you have the right to question any instruction or direction given to you that you think may be unethical or unlawful. If you are uncertain about an action or decision, you may need to seek advice from other people. This may include your supervisor or trusted senior officer, your union representatives, the Department of Local Government, the Ombudsman's Office and the Independent Commission Against Corruption.

Independent Commission Against Corruption	8281 5999
NSW Ombudsman	9286 1000
NSW Department of Local Government	4428 4100

## PART 2: STANDARDS OF CONDUCT

### 6 GENERAL CONDUCT OBLIGATIONS

#### General conduct

- 6.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
  - b) is detrimental to the pursuit of the charter of a council
  - c) is improper or unethical
  - d) is an abuse of power or otherwise amounts to misconduct
  - e) causes, comprises or involves intimidation, harassment or verbal abuse
  - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
  - g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 6.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 6.3 You must treat others with respect at all times.
- 6.4 Where you are a councillor and have been found in breach of the code of conduct, you must comply with any council resolution requiring you to take action as a result of that breach.

#### Fairness and equity

- 6.5 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 6.6 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.

#### Harassment and discrimination

- 6.7 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

#### Development decisions

- 6.8 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.

- 6.9 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

## 7 CONFLICT OF INTERESTS

- 7.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 7.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 7.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 7.4 Private interests can be of two types: pecuniary or non-pecuniary.

### What is a pecuniary interest?

- 7.5 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. (*section 442*)
- 7.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 7.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
  - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
  - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
  - c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 7.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 7.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.



What is a non-pecuniary conflict of interests?

7.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

7.11 The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.

7.12 The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

7.13 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

7.14 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. This disclosure constitutes disclosure in writing for the purposes of clause 7.13.

7.15 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

7.16 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

7.17 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
- b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

- 7.18 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 7.19 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 7.20 Despite clause 7.17(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 7.17(b) above.

Political donations exceeding \$1,000

- 7.21 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 7.22 Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns. For example, councillors should have reasonable knowledge of contributions received by them or their "official agent" (within the meaning of the *Election Funding Act 1981*) that directly benefit their election campaign.
- 7.23 Where a councillor or the councillor's "official agent" has received "political contributions" or "political donations", as the case may be, within the meaning of the *Election Funding Act 1981* exceeding \$1,000 which directly benefit their campaign:
- a) from a political or campaign donor or related entity in the previous four years; and
  - b) where the political or campaign donor or related entity has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 7.17(b).
- 7.24 Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 7.25 If a councillor has received a donation of the kind referred to in clause 7.23, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff or appointing another person or body to make the decision in accordance with the law (see clause 7.20 above).

Other business or employment

- 7.26 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. *(section 353)*
- 7.27 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
  - b) involve using confidential information or council resources obtained through your work with the council
  - c) require you to work while on council duty
  - d) discredit or disadvantage the council.

Personal dealings with council

- 7.28 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 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.

## 8 PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

### Token gifts and benefits

8.1 Generally speaking, token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
  - i) the discussion of official business
  - ii) council work related events such as training, education sessions, workshops
  - iii) conferences
  - iv) council functions or events
  - v) social functions organised by groups, such as council committees and community organisations.
- b) invitations to and attendance at local social, cultural or sporting events
- c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

### Gifts and benefits of value

8.2 Notwithstanding clause 8.1, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

### Gifts and benefits

8.3 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) accept any gift or benefit of more than token value
- e) accept an offer of money, regardless of the amount.

8.4 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

- 8.5 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 8.6 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Improper and undue influence

- 8.7 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.
- 8.8 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

## 9 RELATIONSHIP BETWEEN COUNCIL OFFICIALS

### Obligations of councillors and administrators

9.1 Each council is a body corporate. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to industrial relations policy.

9.2 Councillors or administrators must not:

- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
- 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 member or delegate (*Schedule 6A of the Act*)
- 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 council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors who, in the course of their work, may be provided with information by individual councillors.

### Obligations of staff

9.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.

9.4 Members of staff of council must:

- a) give their attention to the business of council while on duty
- b) ensure that their work is carried out efficiently, economically and effectively
- c) carry out 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.

### Obligations during meetings

9.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.

9.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

Inappropriate interactions

9.7 You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual staff matters and not broader industrial policy issues.
- b) Council staff approaching councillors and administrators to discuss individual staff matters and not broader industrial policy issues.
- c) Council staff refusing to give information that is available to other councillors to a particular councillor.
- d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
- e) Councillors and administrators being overbearing or threatening to council staff.
- f) Councillors and administrators making personal attacks on council staff in a public forum.
- g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
- h) 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.
- i) Council staff meeting with developers alone AND outside office hours to discuss development applications or proposals.
- j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

9.8 It is appropriate that staff and staff organisations have discussions with councillors in relation to matters of industrial policy.

## 10 ACCESS TO INFORMATION AND COUNCIL RESOURCES

### Councillor and administrator access to information

- 10.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under section 12 of the *Local Government Act 1993*.
- 10.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 10.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 10.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 10.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

### Councillors and administrators to properly examine and consider information

- 10.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

### Refusal of access to documents

- 10.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 10.2). The general manager or public officer must state the reasons for the decision if access is refused.

### Use of certain council information

- 10.8 In regard to information obtained in your capacity as a council official, you must:
- a) 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 by virtue of your office or position with council
  - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

### Use and security of confidential information

- 10.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.



10.10 In addition to your general obligations relating to the use of council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
- f) not disclose any information discussed during a confidential session of a council meeting.

Personal information

10.11 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) council's privacy management plan,
- e) the Privacy Code of Practice for Local Government

Use of council resources

10.12 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

10.13 Union delegates and consultative committee members may have reasonable access to council resources 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.

10.14 You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

10.15 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.

10.16 The interests of a councillor in their re-election is considered to be a private interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. You must not use council letterhead, council crests and other information that could give the appearance it is official council material for these purposes.

10.17 You must not convert any property of the council to your own use unless properly authorised.

- 10.18 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Councillor access to council buildings

- 10.19 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.
- 10.20 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- 10.21 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.

## 11 REPORTING BREACHES

11.1 Any person, whether or not a council official, may make a complaint alleging a breach of the code of conduct.

11.2 For the purposes of Chapter 14, Part 1, Division 3 of the Act, failure by a councillor to comply with an applicable requirement of this code of conduct constitutes misbehaviour. (section 440F)

### Protected disclosures

11.3 The *Protected Disclosures Act 1994* aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.

11.4 The purpose of that Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that matters raised in the disclosures are properly investigated.<sup>1</sup>

11.5 If a complaint under this code is or could be a protected disclosure, you must ensure that in dealing with the complaint, you comply with the confidentiality provisions of the Protected Disclosures Act set out in section 22:

*'An investigating authority or public authority (or officer of an investigating authority or public authority) or public official to whom a protected disclosure is made or referred is not to disclose information that might identify or tend to identify a person who has made the protected disclosure unless:*

*(a) the person consents in writing to the disclosure of that information, or*

*(b) it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person whom the information provided by the disclosure may concern, or*

*(c) the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively or it is otherwise in the public interest to do so.'*

### Reporting breaches of the code of conduct

11.6 You should report suspected breaches of the code of conduct by councillors, members of staff of council (excluding the general manager) or delegates to the general manager in writing.

11.7 Where you believe that the general manager has breached the code of conduct, you should report the matter to the Mayor in writing.

---

<sup>1</sup> Protected Disclosures Guidelines, 5<sup>th</sup> Edition, NSW Ombudsman, May 2004, Annexure 2.

- 11.8 Where you believe that an administrator has breached the code of conduct, you should report the matter to the Minister for Local Government in writing.
- 11.9 Councillors should not make allegations of suspected breaches of the code at council meetings or in other public forums.

## **PART 3: PROCEDURES**

### **12 COMPLAINT HANDLING PROCEDURES & SANCTIONS**

12.1 Complaints about the conduct of councillors, members of staff of council, members of council committees and delegates of council should be addressed in writing to the general manager.

12.2 Complaints about the conduct of the general manager should be addressed in writing to the Mayor.

#### Complaint handling procedures – staff, delegate and council committee member conduct (excluding the general manager)

12.3 The general manager is responsible for making enquiries, or causing enquiries to be made, into complaints alleging breach of the code of conduct regarding members of staff of council, delegates of council and/or members of council committees (other than councillors), and will determine such matters.

12.4 Where the general manager has determined not to enquire into the matter, the general manager will give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith.

12.5 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument and make provision for procedural fairness including the right of an employee to be represented by their union.

12.6 Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

12.7 Sanctions for delegates and/or members of council committees depend on the severity, scale and importance of the breach and may include:

- a) censure
- b) requiring the person to apologise to any person adversely affected by the breach
- c) counselling
- d) prosecution for any breach of the law
- e) removing or restricting the person's delegation
- f) removing the person from membership of the relevant council committee
- g) revising any of council's policies, procedures and/or the code of conduct.

#### Complaint handling procedures – councillor conduct

12.8 The general manager is responsible for assessing complaints, made under Section 11.1, alleging breaches of the code of conduct by councillors, in accordance with the assessment criteria provided at Section 13 of this Code, in order to determine whether to refer the matter to the conduct review committee/reviewer.

12.9 The general manager must determine either to:

- a) take no further action and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
- b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
- c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
- d) refer the matter to the conduct review committee/reviewer.

Complaint handling procedures – general manager conduct

12.10 The Mayor is responsible for assessing complaints, made under clause 11.1, alleging breaches of the code of conduct by the general manager, in accordance with the assessment criteria provided at Section 13 of this Code, in order to determine whether to refer the matter to the conduct review committee/reviewer.

12.11 The Mayor must determine either to:

- a) take no further action and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
- b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
- c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
- d) refer the matter to the conduct review committee/reviewer.

Conduct review committee/reviewer

12.12 Council must resolve to appoint persons independent of council to comprise the members of a conduct review committee and/or to act as sole conduct reviewers.

12.13 The members of the conduct review committee and/or the persons acting as sole conduct reviewers should be appropriately qualified persons of high standing in the community. These persons do not need to be residents of the local government area of the council that has appointed them.

12.14 The conduct review committee, members of such committee and sole conduct reviewers may act in that role for more than one council.

12.15 The general manager, or in the case of complaints about the general manager, the Mayor, will undertake the following functions in relation to the conduct review committee/reviewer:

- provide procedural advice when requested

- ensure adequate resources are provided, including providing secretariat support
  - attend meetings of the conduct review committee if so requested by the committee, and then in an advisory capacity only
  - provide advice about council processes if requested to do so but not so as to take part in the decision making process
  - if attending the conduct review committee meeting to provide advice, must not be present at, or in sight of, the meeting when a decision is taken.
- 12.16 Where a matter is to be considered by the conduct review committee/reviewer, then in each case, the general manager, or Mayor in the case of complaints about the general manager, acting in their capacity as advisor, will either convene a conduct review committee and select its members from those appointed by council or alternatively select a sole conduct reviewer from those appointed by council.
- 12.17 The conduct review committee/reviewer will operate in accordance with the operating guidelines at Section 14 of this code.
- 12.18 The conduct review committee/reviewer operating guidelines (Section 14) are the minimum requirements for the operation of conduct review committees/reviewers. Council may supplement the guidelines, but any additional provisions should not be inconsistent with the guidelines.
- 12.19 The conduct review committee/reviewer is responsible for making enquiries into complaints made under clause 11.1 alleging breaches of the code of conduct by councillors and/or the general manager and must determine either to:
- a) not make enquiries into the complaint and give the complainant the reason/s in writing as provided in clause 13.1 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
  - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, making recommendations to the general manager, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
  - c) make enquiries into the complaint, or
  - d) engage another appropriately qualified person to make enquiries into the complaint, or
  - e) not make enquiries or discontinue making enquiries where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing. Despite any other provision of this code, this will constitute finalisation of such matters and no further action is required.
- 12.20 Where the conduct review committee/reviewer conducts enquiries or causes enquiries to be conducted, the conduct review committee/reviewer must make findings on whether, in its view, the conduct referred to it comprises a breach of the code of conduct.

12.21 Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer may recommend that council take any actions provided for in this code of conduct that it considers reasonable in the circumstances.

12.22 Where the conduct review committee/reviewer makes findings, the conduct review committee/reviewer will report its findings, and the reasons for those findings, in writing to the council, the complainant and the person subject of the complaint.

12.23 The conduct review committee/reviewer will report its findings and any recommendations to council only when it has completed its deliberations.

#### Sanctions

12.24 Before a council can impose a sanction it must make a determination that a councillor or the general manager has breached the code of conduct.

12.25 Where the council finds that a councillor or general manager has breached the code, it may decide by resolution to:

- a) censure the councillor for misbehaviour in accordance with section 440G of the Act
- b) require the councillor or general manager to apologise to any person adversely affected by the breach
- c) counsel the councillor or general manager
- d) make public findings of inappropriate conduct
- e) prosecute for any breach of law.

#### Councillor misbehaviour

12.26 Under section 440G a council may by resolution at a meeting formally censure a councillor for misbehaviour.

12.27 Under section 440H, the process for the suspension of a councillor from civic office can be initiated by a request made by council to the Director General of the Department of Local Government.

12.28 The first ground on which a councillor may be suspended from civic office is where the councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the councillor's suspension.

12.29 Council cannot request suspension on this ground unless during the period concerned the councillor has been:

- formally censured for incidents of misbehaviour on two or more occasions, or
- expelled from a meeting of the council or a committee of the council for an incident of misbehaviour on at least one occasion.

12.30 The second ground on which a councillor may be suspended from civic office is where the councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the councillor's suspension.



12.31 Council cannot request suspension on this ground unless the councillor has been:

- formally censured for the incident of misbehaviour concerned, or
- expelled from a meeting of the council or a committee of the council for the incident of misbehaviour concerned.

12.32 Under section 440H, the process for the suspension of a councillor can also be initiated by the Department of Local Government, the Independent Commission Against Corruption or the NSW Ombudsman.

Reporting on complaints

12.33 The general manager must report annually to council on code of conduct complaints. This report should include, as a minimum, a summary of the:

- a) number of complaints received,
- b) nature of the issues raised by complainants, and
- c) outcomes of complaints.

### 13 COMPLAINT ASSESSMENT CRITERIA

- 13.1 The general manager or Mayor, in the case of a complaint about the general manager, will assess a complaint alleging a breach of the code of conduct to determine if the matter should be referred to the conduct review committee/reviewer. In assessing the complaint, the general manager and Mayor will have regard to the following grounds:
- a) whether there is any prima facie evidence of a breach of the code of conduct
  - b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties as general manager
  - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - d) whether the conduct the subject of the complaint could reasonably constitute a breach of the code of conduct
  - e) whether the complaint raises issues that require investigation by another person or body, such as referring the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police
  - f) whether there is an alternative and satisfactory means of redress
  - g) how much time has elapsed since the events the subject of the complaint took place
  - h) how serious the complaint is and the significance it has for council
  - i) whether the complaint is one of a series indicating a pattern of conduct.
- 13.2 Complaints that are assessed as not having sufficient grounds to warrant referral to the conduct review committee/reviewer or that are to be referred to a more appropriate person or body can be finalised by the general manager or the Mayor, in the case of complaints about the general manager.
- 13.3 If a matter is referred to the conduct review committee/reviewer, then the conduct review committee/reviewer should use the above criteria in clause 13.1 for its initial assessment of the complaint and determination of the course to follow in dealing with the complaint.

## 14 CONDUCT REVIEW COMMITTEE/REVIEWER OPERATING GUIDELINES<sup>2</sup>

### 14.1 Jurisdiction of the conduct review committee/reviewer

The complaint handling function of the conduct review committee/reviewer is limited to consideration of, making enquiries into and reporting on complaints made under clause 11.1, about councillors and/or the general manager.

Complaints regarding pecuniary interest matters should be reported to the Director General of the Department of Local Government and will not be dealt with by the conduct review committee/reviewer.

Sole reviewers and members of the conduct review committee are subject to the provisions of this code of conduct.

### 14.2 Role of the general manager and Mayor

The general manager, or in the case of complaints about the general manager, the Mayor, will undertake the following functions in relation to the conduct review committee/reviewer:

- provide procedural advice when requested
- ensure adequate resources are provided, including providing secretariat support
- attend meetings of the conduct review committee if so requested by the committee, and then in an advisory capacity only
- provide advice about council processes if requested to do so but not so as to take part in the decision making process
- if attending the conduct review committee meeting to provide advice, must not be present at, or in sight of, the meeting when a decision is taken.

Where the general manager, or in the case of complaints about the general manager, the Mayor, is unable to act as advisor to the conduct review committee/reviewer due to a conflict of interests in relation to a complaint, they are to nominate a senior council officer or councillor (in the case of complaints about the general manager) to perform this role.

### 14.3 Composition of the conduct review committee

Where council has a conduct review committee it will comprise three or more appropriately qualified persons of high standing in the community who are independent of the council, convened and selected as provided in clause 12.16.

In the circumstances where a member of the conduct review committee cannot participate in a matter, the general manager, or Mayor in the case of complaints about the general manager, should select another person as provided in clause 12.16.

The chairperson is to be elected by the members of the conduct review committee.

The general manager, or in the case of complaints about the general manager, the Mayor, will act in an advisory capacity to the committee when requested.

---

<sup>2</sup> The operating guidelines have been adapted from the Ku-ring-gai Council Conduct Committee Guidelines – 25 October 2006

14.4 Quorum of the conduct review committee

A quorum for a meeting of the conduct review committee is the majority of the members of the conduct review committee.

If a quorum is not present at a meeting of the conduct review committee it must be adjourned to a time and date that is specified.

Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.

Business may be conducted by video-conference or teleconference.

14.5 Voting of the conduct review committee

Each member of the conduct review committee shall be entitled to one vote in respect of any matter. In the event of equality of votes being cast, the chairperson shall have the casting vote.

If the vote on a matter is not unanimous, then this should be noted in any report to council on its findings.

In relation to any procedural matters relating to the operation of the conduct review committee, the ruling of the chairperson shall be final.

14.6 Procedures of the conduct review committee/reviewer

The general manager or Mayor, in the case of a complaint about the general manager, will be responsible for convening the initial meeting of the conduct review committee when there is a complaint to be referred to it.

The conduct review committee/reviewer will conduct business in the absence of the public.

The conduct review committee/reviewer will keep proper records of deliberations.

The conduct review committee shall determine the procedures governing the conduct of its meetings provided such procedures are consistent with these operating guidelines.

#### 14.7 Procedural fairness

In conducting enquiries, the conduct review committee/reviewer or the person engaged to do so should follow the rules of procedural fairness and must -

- a) provide the person the subject of the complaint with a reasonable opportunity to respond to the substance of the allegation
- b) provide the person the subject of the complaint with an opportunity to place before the conduct review committee/reviewer or person undertaking the enquiry any information the person considers relevant to the enquiry
- c) provide the person the subject of the complaint with an opportunity to address the conduct review committee/reviewer in person
- d) hear all parties to a matter and consider submissions before deciding the substance of any complaint
- e) make reasonable enquiries before making any recommendations
- f) act fairly and without prejudice or bias
- g) ensure that no person decides a case in which they have a conflict of interests
- h) conduct the enquiries without undue delay.<sup>3</sup>

Where the person the subject of the complaint declines or fails to take the opportunity provided to respond to the substance of the allegation against them, the conduct review committee/reviewer should proceed to finalise the matter.

#### 14.8 Complaint handling procedures

In addition to complying with these operating guidelines, the conduct review committee/reviewer will ensure it deals with all complaints in accordance with the provisions of Section 12 of this Code.

All persons who are the subject of complaints that are referred to the conduct review committee/reviewer will receive written information about the process being undertaken to deal with the matter.

The conduct review committee/reviewer will only deal with matters that are referred to it by the general manager or the Mayor.

Where the conduct review committee/reviewer determines to make enquiries into the matter, such enquiries should be made without undue delay.

In circumstances where the person the subject of the complaint meets with the conduct review committee/reviewer, they are entitled to bring a support person or legal adviser. That person will act in an advisory and support role to the person affected. They will not speak on behalf of the subject person.

---

<sup>3</sup> NSW Ombudsman, Investigating complaints, A manual for investigators, June 2004.

14.9 Findings and recommendations of the conduct review committee/reviewer

Where the conduct review committee/reviewer determines, in its view that the conduct referred to it comprises a breach of this code of conduct it may, in its report to the council, make recommendations, that the council take any of the following actions:

- a) censure the councillor for misbehaviour
- b) require the councillor or general manager to apologise to any person adversely affected by the breach
- c) counsel the councillor or general manager
- d) make public findings of inappropriate conduct
- e) prosecute for any breach of the law
- f) revise any of council's policies, procedures and/or the code of conduct.

Before making any such recommendations, the conduct review committee/reviewer shall have regard to the following:

- a) the seriousness of the breach
- b) whether the breach can be easily remedied or rectified
- c) whether the subject has remedied or rectified their conduct
- d) whether the subject has expressed contrition
- e) whether the breach is technical or trivial only
- f) whether the breach represents repeated conduct
- g) the age, physical or mental health or special infirmity of the subject
- h) the degree of reckless intention or negligence of the subject
- i) the extent to which the breach has affected other parties or the council as a whole
- j) the harm or potential harm to the reputation of local government and of the council arising from the conduct
- k) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
- l) whether an educative approach would be more appropriate than a punitive approach
- m) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action
- n) what action or remedy would be in the public interest
- o) where to comply with a councillor's obligations under this code of conduct would have had the effect of depriving the council of a quorum or otherwise compromise the capacity of council to exercise its functions

14.10 Amendment of the operating guidelines

The conduct review committee/reviewer guidelines may be added to and any additional requirements may be further amended or repealed by resolution of the council.

## 5. **CODE OF MEETING PRACTICE**

**REPORTING SECTION:** General Manager  
**AUTHOR:** Ray Kent - General Manager  
**FILE NUMBER:** 145/02/04/00

### **Summary:**

Council's Code of Meeting Practice was adopted in November 2007. A review suggests that it is desirable that the "Order of Business", which is contained within Attachment A to the Code, be amended.

### **Discussion (including issues and background):**

Attached is "Attachment A" to the Code of Meeting Practice which is incorrectly titled "Adopted Standing Orders". The Schedule in fact represents the "Order of Business" for meetings.

The existing Order of Business and a proposed Order of Business are outlined below:

#### **Existing**

1. Opening of Meeting
2. Attendance/Apologies
3. Public Forum Presentations
4. Welcome to Visitors
5. Disclosure of Interests
6. Confirmation of Minutes
7. Reserve Trust Management Report
8. Mayoral Minutes
9. Notices of Motion
10. Council Officer Reports
11. Committee Minutes
12. Representative Reports
13. Closed Council Meeting
14. Close of Meeting

#### **Proposed**

1. Opening of Meeting
2. Acknowledgement of Traditional Owners
3. Apologies
4. Welcome to Visitors
5. Public Forum Presentations
6. Declaration of Pecuniary/Non Pecuniary Interests
7. Confirmation of Minutes
8. Reserve Trust Management Committee Reports
9. Mayoral Minutes
10. Motions of Which Notice Has Been Given
11. Presentation of Petitions
12. Councillor's Questions With Notice
13. Reports of Delegates and Representatives
14. Reservation of Items for Debate
15. Reports of Officers
16. Reports of Committees
17. Questions Without Notice from Councillors
18. Confidential Reports/Closed Council Meeting
19. Close of Meeting

Explanations for the proposed changes to the Order of Business are:

1. In adopting the "Aboriginal Community Development and Reconciliation Plan" Council resolved to begin each meeting and function with an "Acknowledgement of Country"
2. It is considered that a "Welcome to Visitors" should take place before "Public Forum Presentations"

3. "Motions of Which Notice Has Been Given" more accurately describes the nature of the business than "Notices of Motion"
4. Provision needs to be made in an Order of Business for the "Presentation of Petitions"
5. Provision needs to be made in an Order for Business for acknowledging that the Agenda contains written responses to Questions taken on Notice at a previous meeting
6. Rather than consider all Officer's Reports one by one the Council needs to have the opportunity to identify only those items which Councillors wish to debate. The recommendations in respect of the remainder can be moved in one motion. Each Meeting the Chairperson, commencing alternatively to his/her right and left asks Councillors if they wish to reserve an item (a Councillor can only reserve one item at a time). When no more items are identified for debate than the Chair can move the following Motion:  
  
" That the recommendations for all items, with the exception of Items .....(reserved items), be adopted"  
  
After adopting the recommendations for non reserved items the Chairperson then proceeds to deal with the reserved items with the call being given to the Councillor who reserved the item.
7. Councillors should be given an opportunity to ask "Questions Without Notice" through the Chair though, of course, the questions can be taken on notice

**Relevant Reference Documents:**

Walgett Shire Council Code of Meeting Practice (Adopted 20 November 2007)

**Stakeholders:**

Councillors

**Financial Implications:**

Nil

**Recommendations:**

**That:**

1. Attachment A to the Code of Meeting Practice be retitled "Order of Business"
2. The new Order of Business attached to the report be adopted

Attachments: Existing "Adopted Standing Orders - Attachment A"; proposed Attachment A "Order of Business"



*Code of Meeting Practice*

---

**ADOPTED STANDING ORDERS – ATTACHMENT ‘A’**

Clause 16 (1)

**AGENDA**

- 1. Opening of Meeting**
- 2. Attendance/Apologies**
- 3. Public Forum Presentations**
- 4. Welcome to Visitors**
- 5. Disclosure of Interests**
- 6. Confirmation of Minutes**
- 7. Reserve Trust Management Report(s)**
- 8. Mayoral Minutes**
- 9. Notices of Motion**
- 10. Council Officer Reports**
- 11. Committee Minutes**
- 12. Representative Reports**
- 13. Closed Council Meeting Reports – Confidential Matters**
- 14. Close of Meeting**

Attachment A

**Order of Business**

1. Opening of Meeting
2. Acknowledgement of Traditional Owners *(a)*
3. Apologies
4. Welcome to Visitors
5. Public Forum Presentations
6. Declaration of Pecuniary/Non Pecuniary Interests
7. Confirmation of Minutes
8. Reserve Trust Management Committee Reports
9. Mayoral Minutes
10. Motions of Which Notice Has Been Given
11. Presentation of Petitions
12. Councillor's Questions With Notice
13. Reports of Delegates and Representatives
14. Reservation of Items for Debate *(b)*
15. Reports of Officers
16. Reports of Committees
17. Questions Without Notice from Councillors
18. Confidential Reports/Closed Council Meeting
19. Close of Meeting

*(a)* Suggested wording is as follows:

"I would like to acknowledge the traditional owners of the lands within Walgett Shire and I would also like to acknowledge the Aboriginal and Torres Strait Islander people who now reside within this Shire"

*(b)* The opportunity should be provided for Councillors to identify only the items they wish to debate with the recommendations in respect of the remainder able to be moved together with a motion moved by the Chairperson as follows:

"That the recommendations for all items, with the exception of items ..... (Reserved Items), be adopted."

Reservation of items takes place by the Chairperson moving around the table allowing each councillor to reserve one item at a time until no councillor wishes to reserve any further items.

The call in respect of a reserved item is given to the councillor who reserved the item.

## **6. *REPORT ON MANAGEMENT PLAN 2007/2008 – 2011/2012***

**REPORTING SECTION:** General Manager  
**AUTHOR:** Ray Kent – General Manager  
**FILE NUMBER:** 145/11/07/00

---

### **Summary:**

This report summarises the extent to which performance targets set by Management Plan 2007/2008 – 2011/2012 have been achieved during the quarter April 2008 – June 2008.

### **Discussion (including issues and background):**

Under Section 407 of the Local Government Act 1993 the General Manager is required to report periodically on the implementation of the Management Plan. A report must be presented to Council within 2 months after the end of each quarter. This report is presented to Council to demonstrate achievements for the quarter April 2008 – June 2008.

### **Relevant Reference Documents:**

Local Government Act 1993  
Walgett Shire Council Management Plan 2007/2008 – 2011/2012

### **Stakeholders:**

Walgett Shire Council

### **Financial Implications:**

Nil

### **Recommendations:**

**That the Report on the Management Plan 2007/2008 – 2011/2012 for the period April 2008 – June 2008 be received.**



## GENERAL MANAGER

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
1.	To promote better practice and encourage improvement in the way Council conducts its activities and ensure good governance	Completion of the Local Governments Self Assessment Checklist.  Report to Council any discrepancies	On going	General Manager	Checklist completed and reported to Council  Report presented to Council 21 August 2007 Minute 230/07  Status report to be presented to 2 <sup>nd</sup> September 2008 Council meeting
2.	To develop and improve the aesthetic physical characteristics of the Shire.	Develop an organisation culture to ensure all work undertaken by staff is done with pride, care and commitment.	Parks, gardens, road reserves and town entrances are clean, tidy and attractive and Council assets are kept to a standard that sets a good example for the community.	General Manager	Town entry signs erected January/February 2008  Ongoing upkeep of all Council assets and reserves
3.	To be actively involved in developing the strategic vision of the Shire through informed staff involvement	Identify and provide training.  Staff appraisals to include reference to actions required to achieve training and multi skill objectives.	All staff appraised by June 2007 and training calendar developed by August 2007.	General Manager	Staff appraisals completed for 2007/08  Training calendar developed and implemented

# WALGETT SHIRE COUNCIL AGENDA

MANAGEMENT PLAN  
2007/2008 – 2011/2012



## GENERAL MANAGER

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
4.	To be a good employer and provide leadership through a safe and productive workplace.	<p>Develop an organisational culture, which acknowledges dedication and innovation.</p> <p>Staff and Elected Members to be encouraged to self/accept nomination for training which develops innovation, creativity and lateral thought in addressing existing or new challenges.</p>	<p>Staff appraisals by Supervisor and Departmental Manager to be completed by June of each year.</p> <p>Monthly Employee of the Month to be recognised for dedication and innovation of employees.</p> <p>Councillor Training to be implemented in 2008, prior to elections.</p>	General Manager	<p>Appraisals complete</p> <p>Employee recognition given monthly and Employee of the year recognised annually</p> <p>Four information sessions for prospective candidates completed July 2008</p>
5.	To Provide training for newly elected Councillors.	Ensure that all newly elected Councillors are provided with the necessary training as required by the Department of Local Government.	Completed by October 2008.	General Manager	Training and Planning Sessions scheduled for new Council
6.	To provide strong local and regional leadership.	Council will encourage greater involvement and participation in regional and state activities by its senior staff and Council representatives.	<p>Participants reporting to Council on the outcomes of external meetings attended.</p> <p>All senior staff active members of relevant professional groups.</p>	General Manager	<p>Reports being received</p> <p>Complete</p>

# WALGETT SHIRE COUNCIL AGENDA

## MANAGEMENT PLAN 2007/2008 – 2011/2012



### GENERAL MANAGER

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
7.	To ensure that Council's corporate planning needs and policy decisions meet the requirements and expectations of the community and comply with the legislative requirements.	Council will consult widely and communicate decisions effectively.	Council's website will be updated regularly and contain relevant and current information.  Council will advise through press releases and information passed onto Precinct Committees and Community Working Parties.	General Manager	Website maintained  Advice being distributed
8.	To ensure responsible and good governance.	All ordinary meetings and special meetings of Council are appropriately advertised to the public.  Walgett Shire Management Plan adopted in June each year	All meetings are advertised to comply with the Local Government Act 1993.  Opportunities are provided to the public, to address agenda items at every meeting.  Adoption by 30 June.	General Manager	Meetings to date compliant  Objective met  Complaint

**GENERAL MANAGER**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
9.	To Strengthen and maintain involvement in the delivery of services to the community through a transparent process of networking and partnerships.	<p>Support and promote a coordinated approach to planning of services with youth, families and service providers.</p> <p>Investigate library operations with Northern Regional Library to improve utilisation of library resources.</p> <p>Assess child care options and opportunities for the provision of adequate child care for families within the Shire.</p>	<p>Continue to assist the Walgett Interagency Committee with the Shire Youth Plan.</p> <p>Increase in general activity and borrowings in our libraries.</p> <p>Aim to have greater than 6 carers in place by April 2008. Continue support of Walgett Preschool and Long Day Care Centre Inc.</p>	General Manager	<p>Council member of Youth Sub Committee</p> <p>Regular exchanges occurring with Northern Regional Library</p> <p>Library hours have changed and are being monitored</p> <p>Continuing to advertise vacancies for carers</p>

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
1.	To consult with the Community and wider regional Council's to ensure ongoing well planned and appropriate road network development.	Council to prepare a new five year Strategic Road Plan for the period 2008/2013.	Consultation with Shire residents and other local organisations.  Complete document review by December 2007 and adopt reviewed document by March 2008.	Director, Infrastructure and Engineering Services	Review complete  Consultation ongoing
2.	To actively pursue external funding opportunities relative to engineering projects.	Identify a link between available funding programmes and Council projects and, working particularly with community groups, prepare and submit funding applications.	A minimum of four funding submissions proposed and submitted.  Ongoing.	Director, Infrastructure and Engineering Services	Complete
3.	To Provide and maintain facilities which meet reasonable community standards.	Audit all facilities currently available in the Shire and assess future requirements.	Community consultation on assessed future requirements by Council.  Utilisation of Council facilities.  Ongoing internal audit of Council facilities	Director, Infrastructure and Engineering Services	Has not been achieved in 2007/2008



**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
4.	To provide an efficient and reliable kerbside domestic waste collection service.	Provide a weekly kerbside collection service to designated built up areas.  Respond to complaints in a timely fashion.	To provide a minimum of one collection service per week.  Respond within 72 hours Ongoing.	Director, Infrastructure and Engineering Services	Some delays in services due to wet weather/flooding Jan/Feb 08
5.	To Manage Council swimming pools in accordance with relevant legislation.	Maintain a frequent liaison with the Pool Operators' at each facility.	An increase in total patronage.  An amenity which meets relevant legislation and acceptable standards.  Ongoing	Director, Infrastructure and Engineering Services	Pools now closed for winter.  Walgett & Collarenebri pools operation satisfactory  Carinda reported limited usage.
6.	To investigate options for improving heavy vehicle passage through the towns of Lightning Ridge and Collarenebri.	In consultation with the Roads and Traffic Authority and the Community, review available options and prepare a report to Council on these options.	To review the situation regarding heavy vehicle access through Lightning Ridge Township by 30 April 2008.  Review heavy vehicle passage through Collarenebri by April 2009.	Director, Infrastructure and Engineering Services	Has not been achieved 07/08 due to resource limitations

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
7.	To provide street lighting to urban areas using energy efficient lighting at the most competitive cost.	Assess adequacy of street lighting in Lightning Ridge Town area in consultation with Country Energy and the Community in an effort to improve levels of service and efficiency.	Review street lighting in the Shire over a three year return period, undertaking a review in Lightning Ridge in 2007/2008.	Director, Infrastructure and Engineering Services	Completed
8.	To progressively remove trees from public areas which are considered to be inappropriate because of either species type or location and where appropriate replace with a more suitable tree.	Identify trees considered to be inappropriate after consultation with Country Energy and / or others, and report findings to Council.	Twenty trees removed and replaced with trees of more appropriate species and / or in a better location.  Ongoing.	Director, Infrastructure and Engineering Services	Ongoing
9.	To reduce the number of overloaded vehicles using Council's roads network.	Attend meetings of the North West Weight of Loads Committee and analyse breach report information.	A reduction in the number of recorded breaches, relative to the hours worked by Weight of Loads Inspectors.  Ongoing.	Director, Infrastructure and Engineering Services	Three meetings attended to date. Recorded breaches are slightly down, probably partly due to very modest grain harvest activity

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
10.	To identify and respond to issues which adversely affect road safety.	React to matters identified by either; correction, referral to Local Area Traffic Committee or referral to a future works programme.	Complete inspections on Council's complete public roads network. A minimum of four times per annum.	Director, Infrastructure and Engineering Services	Completed
11.	To close Waste Disposal Depots in Collarenebri, Carinda, Rowena and Burren Junction and replace these facilities with Waste Transfer Stations.	To develop proposals to close village waste depots and introduce transfer stations at these locations, maintaining consultation with the community and the Department of Environment and Conservation throughout the process.	Close Waste Disposal Depots at Burren Junction and Rowena and replace them with Waste Transfer Stations by 30 June 2008.	Director, Infrastructure and Engineering Services	No waste depots have been closed at this stage.  Community consultation in future of solid waste Management to be continued in 08/09
12.	To provide waste disposal facilities in Walgett and Lightning Ridge which meet environmental standards, as well as the ratepayer's reasonable expectations.	To operate the Walgett Waste Disposal Depot in accordance with licence conditions.  Construct a new Waste Disposal Depot at Lightning Ridge.	To meet all licence conditions applicable to the Walgett Waste Disposal Depot.  Complete construction of new Waste Disposal Depot at Lightning Ridge by 30 June 2008.  Ongoing.	Director, Infrastructure and Engineering Services	Landfill Environmental Management Plan yet to be approved. Quarterly testing yet to be arranged. Plans for a new Lightning Ridge Waste Depot are currently on hold

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
13.	To operate sewerage treatment and effluent disposal schemes in Walgett, Lightning Ridge and Collarenebri in accordance with legislative requirements	Review the operation of all schemes, and prepare network maintenance and development plans.	Sewerage system chokes and overflows do not exceed numbers of the previous years.	Director, Infrastructure and Engineering Services	Insufficient data to measure this aim.
14.	Implement a user pay system that also encourages efficient water use.	Develop a new pricing policy and implement a public relations programme to complement it.	Introduce a charging regime for water customers based on consumption.	Director, Infrastructure and Engineering Services	Progress is behind schedule regarding the introduction of user pays water supply delivery
		Repair and install Water meters in designated urban areas with the objective of introducing consumption based pricing in 2008/2009.	Prepare a charging regime for water customers based on consumption for introduction in 2008/2009.		Consumption based pricing can not be implemented until 09/10
		Maintain customer access to water conservation information through <a href="http://www.savewater.com.au">http://www.savewater.com.au</a>	On going		

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
15.	To professionally manage Council's assets and ensure reasonable needs of Council are met.	Undertake re-valuation of all Council assets.	Domestic Waste by December 2007	Director, Infrastructure and Engineering Services	Some progress has been achieved against these tasks but none is complete as yet due to resource limitations
		Develop and implement twenty year asset management plans for all infrastructure assets.	Council Housing by March 2008 Transport infrastructure by June 2008 Water and Sewer by December 2008 Recreation and Community assets by June 2009 Administrative assets by June 2009		
		Assess initial condition of road and bridge assets.	Assess trends in asset condition.		
		Review the fifteen year plant replacement program.	Review by March 2008	Manager Engineering	Not completed
		Maximise availability and utilisation of all major Council plant.	Ongoing 85%availability rate	Manager Engineering	Achieved
		Review on an annual basis, the plant hire fees.	Completed annually	Manager Engineering	Completed June 2008

**DIRECTOR, INFRASTRUCTURE AND ENGINEERING SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
16.	To operate aerodromes at Walgett, Lightning Ridge and Collarenebri in accordance with relevant legislation.	Maintain daily (Monday to Friday) safety inspections of these aerodromes. Maintain an inspection Schedule at Collarenebri Aerodrome consistent with usage and climatic factors.  Meet with aerodrome users, including RPT providers, at least annually to discuss operations.	No breaches of relevant legislation.  The financial loss of the aerodromes is kept below \$140,000.00.	Director, Infrastructure and Engineering Services	No reported breaches of legislation  On present trends, financial loss at year's end will be approximately \$160,000
17.	To provide a water supply to Walgett, Collarenebri, Lightning Ridge, Carinda, Cumborah and Rowena.	Respond to any decline in water quality.	Adverse results addressed where possible.	Director, Infrastructure and Engineering Services	Adverse results minor in nature & addressed before any public health issue developed.
18.	To introduce annual stormwater management service charges.	To investigate stormwater activities in consultation with the Walgett Shire Community.	Inclusion of the proposed stormwater management activities in Draft Management Plan 2008/2009	Director, Infrastructure and Engineering Services	Will not be completed 07/08
19.	To identify options for the introduction of a village water supply to Burren Junction.	To investigate, in consultation with the community, the need for a village water supply, in addition to the ability and willingness of the community to meet costs associated with introduction of a water supply.	Complete consultation with the community by 31 March 2008 and report results to council by 31 May 2008.	Director, Infrastructure and Engineering Services	Will not be completed 07/08

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
1.	Support the development of active and creative community members, working in partnership with community, business and Government.	Actively support, develop and promote community services and strategies which address existing and emerging needs.	Use Precinct Committees, Community Working Parties to assist Council with community development.  Respond to issues raised within thirty days taking appropriate recommendations to Council.	Director, Corporate and Community Services	Ongoing Staff attend precinct and Interagency meetings as requested Minutes submitted to Administrator for action when required Community consultation regularly sought Ongoing Targets met
2.	Provide an efficient timely and user friendly response to client requests and concerns.	Council will maintain and improve its customer action request statistics.	Customer Action Requests System average days outstanding <45 days, will quarterly average and be maintained at 80% minimum.  All customer enquiries and complaints will be dealt within five working days.	Director, Corporate and Community Services	Ongoing  Ongoing, Council Management ensure dealt with in a timely manner



**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
3.	Ability to provide people with better opportunities for involvement and consultation about our decisions.	Maintain and publish policies and procedures which promote confidence in the conduct of Council.	Publish newly approved or amended policies on Council's website within thirty days of their adoption by Council.	Director, Corporate and Community Services	Policies being reviewed and updated
4.	To provide services to meet the needs of people from cultural and linguistic backgrounds.	Review Local Ethnic Affairs Priorities Statement (LEAPS) and Action Plan 2006-2009.	Completed by December 2007	Director, Corporate and Community Services	Complete
5.	To support individuals and groups taking initiatives to protect, restore, enhance and conserve the environment of the area.	Respond and actively support or refer initiative from community to protect the environment.	The Shire will be involved in the Business Clean Up Campaign and any environmental initiatives with which Council can assist.	Director, Corporate and Community Services	Complete



**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
6.	Provide an organisation that displays good management and strong forward planning.	Prepare detailed Management Plan encompassing annual operating budget	Completed by June 2008	Director, Corporate and Community Services and General Manager	Management Plan adopted
		Management Plan and Budget Review undertaken on a quarterly basis.	Completed October 2007, February 2008, April 2008 and July 2008	Director, Corporate and Community Services and General Manager	On Target
		Rates and Annual Charges Outstanding reduced by sale of land for unpaid rates, agreements and strong debt recovery policy.	Rates and Annual Charges outstanding reduced to 9% by June 2010.  Annually hold sales of land for unpaid rates in accordance with S713 of LGA.	Director, Corporate and Community Services	30 June 2007 \$1,521,165 - 30 June 08 \$1,078,965  Sales held in May each year, last sale on June 2008
		Unrestricted current ratio remains at an acceptable level above 2:1	2:00:1 Unrestricted current ratio maintained	Director, Corporate and Community Services	3.59:1 for 2006/2007
		Debt Service Ratio remains below 10%	Below 10% Maintained	Director, Corporate and Community Services	0.02:1 for 2006/2007

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
7.	Provide a secure and compliant Records Management Regime.	Continue with the effective "Authority" record keeping system, in keeping with its obligations under Australian Standards (ISO 15489 as amended)	100% operational with suitably qualified staff.  Ongoing	Director, Corporate and Community Services	Ongoing, scoping of complying electronic records management system undertaken Staff training ongoing
		Implement electronic record keeping for assessment of effectiveness for Council documents and records.	100% operational with suitably qualified staff by March 2008.	Director, Corporate and Community Services	Scoping of complying electronic records management system undertaken. Expected implementation in 2008/2009
8.	Council to be an advocate for social matters on behalf of the Community.	Complete Social Plan	Draft Complete by June 2007. Adopted by August 2007	Director, Corporate and Community Services	Adopted 21 August 2007
		Report to Council achievements of the Social Plan	Completed by November 2007.	Director, Corporate and Community Services	Complete
		Continually update Council Website.	Ongoing	Director, Corporate and Community Services	Website updated on a regular basis. Redesign under review

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
9.	To ensure that Information Technology is adequate for the organisation.	Continue implementation of "Conquest" System to ensure more effective tracking of Council assets.	Ongoing	Director, Corporate and Community Services	Ongoing
		Continually review "Authority" System to ensure that it is used at full capacity.	Ongoing	Director, Corporate and Community Services	Ongoing
		Provide ongoing training and support to all staff.	Ongoing	Director, Corporate and Community Services	Ongoing training provided to all staff within budgetary constraints
10.	To provide quality service to all customers.	Measure performance through the use of a Customer Satisfaction Survey.	A minimum of 160 surveys per annum, tracking individual responses and mean averages for each survey.  An average of four to be targeted:- 1= Poor, 2= Fair, 3= Good, 4= Very Good, 5= Excellent  Ongoing	Director, Corporate and Community Services	Ongoing
		Review the operation of customer service area.	Ongoing	Director, Corporate and Community Services	Staff training and systems review ongoing
		Further review and develop processes and procedures to ensure optimal delivery and customer satisfaction.	Ongoing	Director, Corporate and Community Services	Ongoing training with processes continually developed

# WALGETT SHIRE COUNCIL AGENDA

## MANAGEMENT PLAN 2007/2008 – 2011/2012



### DIRECTOR CORPORATE AND COMMUNITY SERVICES

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
11.	To provide a highly skilled and motivated workforce.	Staff are continually provided with adequate resources and training when required to ensure optimal productivity.	Percentage of staff at skill level 2 and above is over 60% by March 2007.	Director, Corporate and Community Services	47% staff at skill level 2 or above
		Staff turnover is kept at an acceptable level of industry standard.	Labour turnover is below average industry standard.	Director, Corporate and Community Services	29.4% turnover for the period July 2007 – June 2008
12.	To network with other Councils and the State Government funding providers to achieve major sustainable benefits through tourism and visitation programs.	Report to Council Achievements of Tourism Marketing Plan.	Completed November 2007	Director, Corporate and Community Services	Tourism Strategy report July 2008 Meeting
13.	To provide an image of Walgett Shire that presents as a tourism destination.	Develop a program to improve presentation of shire towns and entrances.	Completed by July 2007	Director, Corporate and Community Services	New Signage for town entrances installed Plan for gradual bar removal & CBD environmental upgrade for Walgett included in Council's application to NCCPP application in Partnership with local police and community to be submitted in round 6 Ongoing community consultation

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
14.	To make information regarding structured tour options available to all visitors to the Shire.	Review and update existing tourism information and pamphlets.	Ongoing	Director, Corporate and Community Services	Complete
15.	To offer equal opportunity to all young people within our shire, striving to achieve positive outcome for the benefit of all youth in the shire.	Development of Youth Services Strategy	Completed by September 2007	Director, Corporate and Community Services	Due to extensive ongoing programs this strategy will not be presented until May 2008
		Provision of Quality Supervised Programmes to engage and maintain their attendance relevant to the youth of today and to provide a safe and enjoyable environment	Youth centre attendance figures maintained and increased by 50%.	Director, Corporate and Community Services	Collarenebri approx 15-20 per day Lightning Ridge approx 15-20 per day\ Walgett – average 60 for PCYC. Approx 30-40 per day
			Further Staff appointment and training by June 2008	Director, Corporate and Community Services	All youth workers & Youth Development Officer commenced study Cert III Community Services  All youth staff have undertaken First Aid training  Youth Development Officer – Management Skills Training  Cultural Awareness Training

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
			Positive Community feedback	Director, Corporate and Community Services	Positive Feedback ongoing
		Renovation of Youth centre buildings to ensure safety standards are met.	Completed by December 2007	Director, Corporate and Community Services	Walgett Youth Centre upgrade complete
16.	To enhance, support and sustain economic development in the Walgett shire.	<p>Develop an Economic Development Plan</p> <p>Develop strategies and events for the effective marketing and promotion of the shire.</p> <p>Access funding opportunities relevant to Economic Development in the Walgett Shire.</p> <p>Look for Business opportunities which have the potential to bring income to the Shire.</p> <p>Provide support to existing businesses in the Shire.</p>	<p>Completed by September 2007</p> <p>Reactivation of Chamber of Commerce in Walgett, Lightning Ridge and Collarenebri.</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>	<p>Director, Corporate and Community Services</p> <p>Director, Corporate and Community Services</p>	<p>Economic Development Officer Position removed from 2008/2009 budget. No suitable applicants.</p> <p>Liaison with suitable State Government representatives established &amp; ongoing</p> <p>Ongoing</p>

**DIRECTOR CORPORATE AND COMMUNITY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
17.	To ensure a high quality of service and responsiveness to the needs of the Aboriginal community within Walgett Shire.	<p>Develop an Aboriginal Employment Strategy.</p> <p>Develop School to Work Programme</p> <p>Formalise partnerships with Agencies such as Community Facilitator, Interagency groups and Dharriwa Elders group, in order to Provide support to Aboriginal community members in liaising with these agencies.</p>	<p>Draft Completed by November 2007</p> <p>Adopt and implement a Walgett Shire Learning Program by August 2007.</p> <p>Ongoing</p>	Director, Corporate and Community Services	<p>Aboriginal Community Development and Reconciliation Plan presented at April 2008 Council meeting</p> <p>Liasion commenced with Aboriginal Employment Service Re: opening Walgett office</p> <p>Ongoing</p>



**DIRECTOR, PLANNING AND REGULATORY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
1.	To promptly and professionally assess development proposals.	Process Complying Development Certificate Applications.  Process Construction Certificate and Development Applications	90% of complete applications are finalised within 7 days.  80% of complete applications are finalised within 40 days.	Director, Planning and Regulatory Services	Target met (42 applications average 3.8 days)  Target met 49 Applications Average 27.8 days
2.	To develop a Local Environmental Plan that brings Walgett Shire in line with current New South Wales standards.	Prepare and adopt a land use study and strategy.  Prepare and adopt a Local Environmental Plan based on the land use study and strategy.	Currently in draft form and due for finalisation by May 2007.  Draft Environmental Plan to be finalised by December 2007.	Director, Planning and Regulatory Services	Adopted by Council 11.12.2007. Modified since.  Draft maps & LEP awaiting endorsement by Department Planning
3.	To provide companion animal management and control services.	(a) Address emergency situations where dogs are attacking people and animals.  (b) Micro chipping of companion animals.	(a) All attacks are investigated within 24 hours of notification.  (b) 90% of animals are micro chipped within three working days of request.	Director, Planning and Regulatory Services	Target met  Target met
4.	To ensure that dilapidated premises and environmental health matters are addressed to minimise risks to the public.	Complaints will be promptly investigated.	Action will be taken within two weeks to address 90% of complaints received.	Director, Planning and Regulatory Services	Target met



**DIRECTOR, PLANNING AND REGULATORY SERVICES**

No	Mission Aim	2007/2008 Activity	Measurement, Method and Target	Responsible Manager	Status
5.	Minimise the risk of significant environmental pollution.	Respond to major pollution incidents.	All reported major incidents are investigated within 24 hours.	Director, Planning and Regulatory Services	No major incidents reported
6.	We will responsibly manage planning and environmental issues, while taking into account the needs of the community and we will update means of acquiring information for users.	Integration of GIS (Geographical Information System) into present corporate software package.	Continual operational updates.	Director, Planning and Regulatory Services	Cemetery plot maps being revised.
7.	To monitor algal blooms within the Namoi and Barwon Rivers.	Submit samples of river water from Collarenebri and Walgett to the Department of Natural Resources for analysis of algal content.	Samples are submitted on a weekly basis in summer and fortnightly in winter.	Director, Planning and Regulatory Services	Target met except when significant flow events did not warrant sampling
8.	To provide a water supply to Walgett, Collarenebri, Lightning Ridge, Carinda, Cumborah and Rowena.	Undertake a regular programme of sampling and testing to check water quality.	Monthly sampling of water supply.	Director, Planning and Regulatory Services	Target met
9.	To ensure that rural and urban addressing within the shire is improved to comply with Australian Standards.	Rural Addressing number allocation and signage implementation.  Urban Addressing numbers allocated with community consultation.	Complete by 30 June 2008.  Majority of urban premises clearly numbered by 30 June 2009.	Director, Planning and Regulatory Services	Geo-coding and draft names determined. Public consultation in progress . Not yet commenced..