



LEETON
SHIRE COUNCIL

ORDINARY COUNCIL MEETING
AGENDA

23 FEBRUARY 2022
7.00PM

TO BE HELD IN THE
COUNCIL CHAMBERS
23-25 CHELMSFORD PLACE
LEETON NSW 2705

Authorised for release: Jackie Kruger General Manager

LEETON SHIRE COUNCIL

AGENDA

ORDINARY COUNCIL MEETING

23 February 2022

7.00PM

1. CIVIC PRAYER

2. ACKNOWLEDGEMENT OF COUNTRY

Presentation of Acknowledgement of Country created by the community at the 2022 Australia Day ceremony

An initiative of the LDLALC and members of the Leeton Wiradjuri community, to be presented to Council by William and Anmaree Ingram.

It features gum leaves that were decorated by members of the Leeton community at the Australia Day ceremony and pool party (Mayor Reneker's in among them) and it is intended for it to be displayed in the foyer of the Council building

3. APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS

4. CONFIRMATION OF MINUTES AND ANY MATTERS ARISING

RECOMMENDATION

THAT the Minutes of the Ordinary Council Meeting held on Wednesday 22 December 2021, as circulated, be taken as read and CONFIRMED.

5. DISCLOSURES OF INTERESTS

6. PUBLIC REPRESENTATIONS

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11. CONFIDENTIAL MATTERS

12. CONCLUSION OF THE MEETING

Council meetings are now video recorded. Members of the public are advised that their voice and/or image may form part of that recording.

PUBLIC REPRESENTATION

If any member of the public wishes to formally address the Council in relation to a matter in this agenda they are to register to speak for a maximum of three (3) minutes by Tuesday 12 noon preceding the meeting.

Contact Kate Weston – 6953 0903

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS,
OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Could your possible conflict of interest lead to private gain or loss at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

CONFLICT OF INTEREST

- A conflict of interest is a clash between private interest and public duty. There are two types of conflict: Pecuniary – regulated by the Local Government Act and Division of Local Government and, Non-pecuniary – regulated by Codes of Conduct and policy. ICAC, Ombudsman, Division of Local Government (advice only).

THE TEST FOR CONFLICT OF INTEREST

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest

IDENTIFYING PROBLEMS

- 1st Do I have private interest affected by a matter I am officially involved in?
- 2nd Is my official role one of influence or perceived influence over the matter?
- 3rd Do my private interest conflict with my official role?

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and Codes.

Contact	Phone	Email	Website
Leeton Shire Council	6953 0911	council@leeton.nsw.gov.au	www.leeton.nsw.gov.au
ICAC	8281 5999 Toll Free 1800 463 909	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Office of Local Government	4428 4100	olg@olg.nsw.gov.au	www.olg.nsw.gov.au
NSW Ombudsman	9286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

MAYORAL REPORTS

ITEM 1 COUNCILLOR PORTFOLIOS

RELATED FILE NUMBER EF21/104

RECORD NUMBER 22/44

SUMMARY/PURPOSE

As Mayor I have met with all Councillors. There is general support to establish portfolio leads for key Council priorities. As portfolio leads, Councillors will become the elected Council's champion and relationship manager on these important matters on behalf of Leeton Shire Council.

Following is the list of portfolios and the associated responsible Councillors:

Health	Cr Ciccia
Water Security	Cr Smith
Business	Cr Maytom
Housing	Cr Kidd
Arts and Culture	Cr Kidd
WR Connect Intermodal	Cr Reneker
Police Liaison	Cr Reneker
Aboriginal Liaison	Cr Reneker
Financial Sustainability	Cr Morris
Education	Cr Holt
Youth	Cr Nardi
CBD Enhancement Strategy	Cr Weston

RECOMMENDATION

THAT Council adopts a system of 'portfolio leads', as listed above.

ATTACHMENTS

There are no attachments for this report.

GENERAL MANAGER'S MATTERS

ITEM 8.1 DELEGATIONS OF AUTHORITY TO THE MAYOR

RECORD NUMBER	22/41
RELATED FILE NUMBER	EF21/118
AUTHOR/S	Records Officer
APPROVER/S	Executive Manager IPR, Governance and Engagement

SUMMARY/PURPOSE

In accordance with Section 380 of the *Local Government Act 1993* (the Act), Council is required to review its delegations during the first 12 months of each term of office.

Under Section 377 of the Act Council may, by resolution, delegate authority to the Mayor and, in the absence of the Mayor, the Deputy Mayor, to exercise and/or perform functions on behalf of the Council.

RECOMMENDATION

THAT Council:

1. Delegates authority under Section 377 of the *Local Government Act 1993* to the Mayor – and, in the absence of the Mayor, the Deputy Mayor for the period of the Mayor's absence – to exercise and/or perform on behalf of the Council the following powers, authorities, duties and functions:

Conferring Powers or Duties under the *Local Government Act 1993*

To give effect to the Law, Council's adopted policies, resolutions and directions, provided that such delegation is not sub-delegated without the specific approval of Council or as prescribed under the *Local Government Act 1993*.

Powers or Duties Under Other Legislation

If, under an Act other than the *Local Government Act 1993*, a function is conferred or imposed on the Mayor, the function is taken to be conferred or imposed on the Council and the Mayor has delegated authority to exercise and/or perform on behalf of the Council the powers, authorities, duties and functions as prescribed under that other Act.

Preside at Meetings and Functions of Council

Preside at all meetings of Council, Committees and Public Meetings convened by Council at which the Mayor is present, unless Council otherwise appoints another Councillor or person to perform this function.

Negotiations on Behalf of Council

In conjunction with the General Manager, to participate in negotiations on behalf of the Council with third parties and in connection with the sale, purchase and lease of land and buildings. This function is subject to the limitation that no contractual agreement is to be entered into without a resolution of Council.

Represent Council – Government and Other Forums

To represent Council in conjunction with the General Manager in deputations to government, inquiries and other forums where it is appropriate that the Mayor should present the Council position.

Sign and Execute Documents

To sign correspondence and other documents, subject to the limitation that execution of any documents under Council Seal must be carried out in compliance with Regulation 400 of the Local Government (General) Regulation 2021.

Issue Media Releases

To make media statements and issue media releases in respect of Council, subject to prior consultation with the General Manager.

Manage the General Manager's Contract

To act as Council's delegate for the purpose of the day-to-day management of the General Manager's contract.

To manage complaints against the General Manager.

Approval of Leave - General Manager

Approve of Leave for the General Manager in terms of the provisions of the General Manager's Contract of Employment with the Council.

Conferences, Seminars, Meetings and Courses

To approve, jointly with the General Manager, the attendance of Councillors, both within and outside the Shire boundaries:

- i. At any seminar, conference, meeting or course, in excess of one day duration or where an overnight stay is involved, or
- ii. To attend to Council business, as considered necessary by the Mayor and the General Manager provided that:
 - o Such delegation shall not be exercised if there is a prior Council meeting at which the attendance might be considered allowing sufficient time for registration, arrangements etc.
 - o Provision has been made for such expenditure in Council's budget.
 - o With reasonable expenses to be reimbursed by the Council in accordance with Councillor's Payment of Expenses and Provision of Facilities policy.

Legal

When considered necessary by the Mayor, to request the General Manager to obtain legal advice or legal representation, regarding any matter in which the Council is or may become involved.

Urgent Works

Authorise any work when an emergency situation arises, at a cost not exceeding \$50,000 in any particular situation.

Civic and Ceremonial Functions

Approve Civic Receptions, in conjunction with General Manager, and carry out the Civic and Ceremonial functions of the Mayoral Office.

Policy Making

To exercise, in cases of necessity, the policy making functions of the governing body of the Council between meetings of the Council.

Citizenship Ceremonies

To perform Citizenship Ceremonies and Receive a Pledge of Commitment

REPORT

(a) Background

Council has now appointed its Mayor for the coming two years to September 2023. It is appropriate that the Council provide direction for the Mayor through delegations for that period.

(b) Discussion

Section 226 of the *Local Government Act 1993* specifies the role of the Mayor, as:

- a) to be the leader of the council and a leader in the local community
- b) to advance community cohesion and promote civic awareness
- c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities
- d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- e) to preside at meetings of the council
- f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act
- g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council
- h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council
- i) to promote partnerships between the council and key stakeholders
- j) to advise, consult with and provide strategic direction to the General Manager in relation to the implementation of the strategic plans and policies of the council
- k) in conjunction with the General Manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community
- l) to carry out the civic and ceremonial functions of the mayoral office

- m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level
- n) in consultation with the Councillors, to lead performance appraisals of the General Manager
- o) to exercise any other functions of the council that the council determines.

Through delegations the Council more clearly details the powers of its Mayor and also makes for a more efficient organisation.

(c) Options

Option 1: That Council adopts the recommendation in full for the delegations of the Mayor and, in the absence of the Mayor, the Deputy Mayor. **This is the preferred option.**

Option 2: That Council adopts the recommendation with amendments.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Nil

(b) Policy

Nil

(c) Legislative/Statutory

Local Government Act 1993 – Section 226, Section 377 and Section 380

(d) Risk

Without clear delegations there may be a lack of clarity for the Mayor.

Without clear delegations there may be inefficiencies in making decisions or dealing with emergencies.

CONSULTATION

(a) External

Nil

(b) Internal

Nil

[LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN \(DPOP\)](#)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 18 - A community that has politicians who act and listen - 18 b - Strengthen Leeton Shire Council's governance capabilities.

ATTACHMENTS

There are no attachments for this report.

ITEM 8.2 DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER

RECORD NUMBER	22/25
RELATED FILE NUMBER	EF21/118
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

In accordance with Section 380 of the Local Government Act 1993 (the Act), Council is required to review its delegations during the first 12 months of each term of office.

The purpose of this report is to ensure that appropriate delegations are in place for Council's General Manager to enable her to exercise the functions of the Council.

RECOMMENDATION

THAT Council:

1. Rescinds all previous resolutions regarding delegations to the General Manager.
2. Delegates to the General Manager the authority to exercise all functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the *Local Government Act 1993*.

REPORT

(a) Background

The Act articulates the role and function of a Council as the governing body, and the General Manager as the head of the administrative body. The General Manager as head of Council's administrative body, implements Council's strategy and policy, ensures delivery and advises the Council on strategies.

Council previously delegated all delegable functions to the General Manager, on her initial employment as General Manager (Resolution 15/149):

That Council delegates to the General Manager, Ms Jackie Kruger, the authority to exercise all discretionary functions that Council is capable of delegating and is not prohibited from so doing under section 377 of the Local Government Act 1993, and also excluding any specific functions which Council has, by resolution, reserved to Council.

This delegation was reaffirmed in July 2019 when Council resolved (Resolution 19/179):

THAT Council re-confirms the delegations to the General Manager as set out in resolution Number 15/149.

To avoid confusion, it is considered appropriate for the new Council to rescind all previous delegations and make the delegations anew.

(b) Discussion

Under subsection 1, section 377 of the *Local Government Act 1993* a Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the council) any of the functions of the Council under this or any other Act, **other than the following:**

- a. the appointment of a General Manager
- b. the making of a rate
- c. a determination under section 549 as to the levying of a rate
- d. the making of a charge
- e. the fixing of a fee
- f. the borrowing of money
- g. the voting of money for expenditure on its works, services or operations
- h. the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
- i. the acceptance of tenders to provide services currently provided by members of staff of the council
- j. the adoption of an operational plan under section 405
- k. the adoption of a financial statement included in an annual financial report
- l. a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
- m. the fixing of an amount or rate for the carrying out by the council of work on private land
- n. the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
- o. the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the *Environmental Planning and Assessment Act 1979*
- p. the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
- q. a decision under section 356 to contribute money or otherwise grant financial assistance to persons
- r. a decision under section 234 to grant leave of absence to the holder of a civic office
- s. the making of an application, or the giving of a notice, to the Governor or Minister
- t. this power of delegation
- u. any function under this or any other Act that is expressly required to be exercised by resolution of the council.

Despite subsection 1, a Council may delegate its functions relating to the granting of financial assistance if:

- a. the financial assistance is part of a specified program
- b. the program is included in the Council's draft operational plan for the year in which the financial assistance is proposed to be given
- c. the program's proposed budget for that year does not exceed 5 per cent of the Council's proposed income from the ordinary rates levied for that year
- d. the program applies uniformly to all persons within the Council's area or to a significant proportion of all the persons within the council's area.

(c) Options

1. That Council delegates all delegable functions to the General Manager.
2. That Council does not delegate any delegable functions to the General Manger.
3. That the Council delegates specific delegable functions to the General Manger.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Nil

(b) Policy

Nil

(c) Legislative/Statutory

Local Government Act 1993

(d) Risk

Failure to delegate all delegable functions to the General Manger may:

1. leave the General Manager without the capacity to exercise the functions of the Council
2. cause inefficiencies in Council operations/delay decisions that can efficiently be made with the guidance of adopted policies.

CONSULTATION

(a) External

Office of Local Government – Department of Planning, Industry and Environment

(b) Internal

Group Manager Corporate
Group Manager Operations
Group Manager Activation

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 18 - A community that has politicians who act and listen - 18 b - Strengthen Leeton Shire Council's governance capabilities

ATTACHMENTS

There are no attachments for this report.

ITEM 8.3 COUNCIL REPRESENTATION ON COMMITTEES (INTERNAL AND EXTERNAL)

RECORD NUMBER	21/476
RELATED FILE NUMBER	EF21/104
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to seek Council's approval to appoint members of the newly elected Council as representatives to a number of Committees and external organisations.

RECOMMENDATION

THAT Council appoints the Councillors noted in the following table as representatives, for the length of the current Council term, to the Committees and organisations listed in the following table, noting that the Mayor may attend the meetings of any of the Council Committees as a voting member.

Committee	Councillor Representation 2021-2024	Responsible Staff Officer	Meeting Schedule
Section 355 Committees			
Leeton's Men's Shed	Cr Morris Cr Ciccia	Executive Manager IPR, Governance and Engagement	Monthly on the second Wednesday at 9.30am
Light Up Leeton Committee	Cr Weston Cr Maytom	Events Officer	Monthly meetings starting In July/ August, increasing to fortnightly in Oct and weekly in Nov. Days and times vary
Murrarni Community Hall Committee	Cr Ciccia Cr Reneker	Admin Officer – Community Services	Minimum once a year
SunRice Festival Committee	Cr Weston Cr Nardi	Events Officer	Monthly meetings starting in May of the year prior to the festival, increasing to fortnightly in Feb the year of, to weekly in the month prior. Held on a Thursday. Times vary but generally at 7pm
Whitton Community Hall Committee	Cr Smith Cr Reneker	Admin Officer – Community Services	Quarterly on the third Monday of month at 6pm
Whitton Court House and Historical Museum Committee	Cr Kidd Cr Maytom	Manager Cultural Services	Monthly on the third Monday of the month – Evenings

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Yanco Community Hall Committee	Cr Reneker Cr Kidd	Admin Officer – Community Services	Monthly on the second Monday of the month at 12.30pm
Advisory Committees/Working Groups			
Audit, Risk and Improvement Committee (ARIC)	Cr Morris – Voting Cr Holt – Non Voting	Executive Manager IPR, Governance and Engagement	Quarterly – Feb, May, Aug, Nov at 6:30pm
CBD Enhancement Advisory Committee	Cr Morris Cr Weston Cr Kidd Cr Holt Cr Nardi	Group Manager Operations	Ad hoc
Community Grant Funding Working Group (previously Committee)	Cr Morris Cr Smith Cr Nardi Cr Holt	Corporate and Community Planning Officer	Biannually – May and Nov – at 8am
General Manager Review Committee	Cr Reneker Cr Kidd Councillor selected by Council Councillor Selected by GM	Local Government NSW	Annually
Gogeldrie Weir Recreational Facilities Committee	Cr Weston Cr Ciccio Cr Kidd	Manager Visitor Services and Local Activation	Quarterly – Evenings
Infrastructure Working Group	Cr Kidd Cr Ciccio Cr Smith	Group Manager Operations	Quarterly during business hours
Leeton Flood Plain Management Committee	Cr Smith Cr Reneker	Manager Roads and Drainage	TBA
Leeton Local Traffic Committee	Cr Ciccio Cr Holt	Roads Safety Officer or	Quarterly during business hours
Leeton Shire Heritage Committee	Cr Weston Cr Ciccio	Manager Planning, Building and Health and Manager Cultural Services	Bimonthly on the third Thursday of the month during business hours
Leeton Tree Advisory Committee	Cr Holt Cr Kidd	Managers Open Space and Recreation	Biannually or as required – 9am on a Wednesday
Leeton Weeds Committee	Cr Ciccio Mayor Reneker	Regulatory Services Coordinator	Biannually or as required – during business hours
Leeton Youth Council, formerly Leeton Youth Committee	Cr Nardi Cr Reneker Cr Maytom	Corporate and Community Planning Officer	Quarterly at lunchtime, dates to be determined with schools
Roxy Community Theatre Advisory Committee – In Recess	Future Governance to be determined		
Roxy Redevelopment Committee (Build and Operations)	Cr Kidd Cr Morris Cr Nardi Cr Holt	General Manager	Bi-monthly in the evening

Action Committees			
Leeton Australia Day Committee	Cr Weston Cr Reneker	Events Officer	Sept to Feb – as required
Sporting Walk of Fame	Cr Reneker	Manager Open Space and Recreation	As required at 9am.
Henry Lawson Cottage Committee	Cr Weston Cr Ciccica	Building Services and Roxy Redevelopment Coordinator	Quarterly
Whitton Town Improvement Committee	Cr Reneker Cr Smith	Manager Visitor Services and Local Activation	Quarterly on a Monday at 7pm
Yanco Town Improvement Committee	Cr Reneker Cr Smith	Manager Visitor Services and Local Activation	Quarterly on the second Monday of the month at 12.30pm
Health Advisory Committee (Internal)	Cr Reneker Cr Maytom Cr Ciccica	Shire Health Project Coordinator	Monthly at lunch time
External Committees/Organisations			
Country Mayors Association	Cr Reneker	General Manager	Quarterly
Leeton Business Chamber	Cr Weston Cr Morris	Economic Development Manager	Monthly. Meeting times vary but are before and after business hours
Bushfire Management Committee	Cr Reneker	Group Manager Operations	Quarterly during business hours
Murray Darling Association	Cr Smith – Voting Cr Ciccica – Non Voting	General Manager	Quarterly during business hours
Shared Services Committees/Organisations			
Narrandera–Leeton Airport Management Committee	Cr Reneker Cr Smith	Group Manager Shire Activation	Biannually during business hours
Riverina and Murray Joint Organisation	Mayor Reneker	General Manager	Quarterly during business hours
Liaisons			
Executive Aboriginal Strategic Liaison	Cr Reneker Cr Maytom	General Manager	Biannually
Executive Murrumbidgee Irrigation Strategic Liaison	Cr Reneker Cr Smith	General Manager	Biannually
Police Liaison	Cr Reneker	General Manager	Quarterly or as required during business hours

REPORT

(a) Background

Leeton Shire Council works with a number of types of committees and groups including:

- Section 355 Committees
- Advisory Committees
- Action Committees
- Liaison Committees
- Shared Services Committees
- External Organisations.

Section 355 Committees are committees constituted under the powers granted by the *Local Government Act 1993*. Sections 355 and 377 of the Act give Council the authority to delegate some of its functions to a committee. Section 355 Committees act on behalf of the Council for the benefit of the community by carrying out the role specified in each Committee's Terms of Reference.

Advisory Committees provide advice and recommendations to inform decisions made by Council. They are generally made up of community representatives, experts, professionals, representatives from other levels of government, and Council staff as well as Councillors. Unless specifically delegated to make certain decisions, Advisory Committees have the power to make recommendations but not decisions.

Action Committees are committees formed for the purpose of planning and carrying out specific tasks.

Shared Services Committees are formed to enable representatives of the Council's providing shared services to discuss and make decisions about the shared services.

External Committees – Representation on these committees provides an important opportunity to present community and/or local government views and input, as well as advocate and influence policy outcomes.

(b) Discussion

Councillors were all given the opportunity to submit their interest in the various committees and organisations. The following table of committees and Councillor representatives was developed based on those preferences and the need to ensure representation on each of the committees. The table also includes details of the staff responsible for liaising with the committees, as well as meeting schedules and times.

(c) Options

Option 1. To adopt the recommendation as written. **This is the preferred option.**

Option 2. To adopt the recommendation with alterations.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Nil

(b) Policy

Leeton Shire Council Code of Conduct
Leeton Shire Code of Meeting Practice
Individual Committees' Terms of Reference

(c) Legislative/Statutory

Local Government Act 1993

(d) Risk

Failing to appoint representatives to these committees and organisations could lead to take advantage of opportunities share leadership and work in partnership for the good of the community.

CONSULTATION

(a) External

Nil

(b) Internal

Councillors
Mayor and General Manager met to discuss Councillor feedback
Staff representatives to Committees

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 19 - A community that speaks up and gets involved - 19 c - Provide a framework for inclusive decision-making - Support and report on Council's Section 355 Committees".

ATTACHMENTS

There are no attachments for this report.

ITEM 8.4 ADOPTION OF THE LEETON SHIRE COUNCIL CODE OF CONDUCT AND PROCEDURES FOR THE ADMINISTRATION OF THE LEETON SHIRE COUNCIL CODE OF CONDUCT

RECORD NUMBER	22/46
RELATED FILE NUMBER	EF10/126
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is for Council to adopt a new Leeton Shire Council Code of Conduct (the Code of Conduct) and the associated Leeton Shire Council Procedures for the Administration of the Code of Conduct (the Procedures).

RECOMMENDATION

THAT Council adopts the new Leeton Shire Council Code of Conduct and associated Procedures for the Administration of the Leeton Shire Council Code of Conduct.

REPORT

(a) Background

Each new Council is required to adopt the full suite of Council policies within 12 months of the Local Government elections.

Staff are currently reviewing policies and will be presenting them to Council in batches. The Code of Conduct (**Attachment 1**), as the cornerstone of Leeton Shire Council Policy suite, is being presented first, along with the associated Procedures for Administering the Code of Conduct (**Attachment 2**). Alterations are shown in **red text** in the attached documents.

It should also be noted that the policies adopted by the previous Council remain current and Councillors, staff, volunteers and contractors must continue to adhere to these policies until Council adopts new versions or until they are made obsolete.

All Council's current policies can be viewed on Council's website under About Council/Plans, Policies and Reports.

(b) Discussion

The Draft Code of Conduct and Procedures include amendments based on the latest versions of the Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct, which have been prescribed under the Local Government (General) Regulation 2005.

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

Amendments were also made to the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

Amendments to the Procedures

- As outlined in Office of Local Government Circular 20-32, under the new Procedures, councils have the following options when taking disciplinary action against Councillors for breaches of their Codes of Conduct:
 - that a Councillor be formally censured for the breach under section 440G of the *Local Government Act 1993* (the Act), or
 - that a Councillor be formally censured for a breach under section 440G and the matter referred to OLG for further disciplinary action under the misconduct provisions of the Act.
- The process for censuring Councillors for breaches of the Code of Conduct has been significantly strengthened to ensure Councillors are made publicly accountable to their electors for their conduct. When censuring Councillors, councils are required to specify in their resolution the grounds on which the Councillor is being censured by disclosing the investigator's findings and determination and any other grounds that the council considers may be relevant or appropriate.
- Councillors may seek to avoid public censure for breaches of the Code of Conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the council. Investigators can finalise their investigations without a report to the council where they consider these to be an appropriate outcome to the matter they are investigating. However, it will remain open to investigators to finalise their report and to recommend censure where they consider this is appropriate and warranted.
- The process for referral by councils of Code of Conduct breaches by Councillors to OLG for further disciplinary action under the misconduct provisions of the Act has been streamlined. Investigators are required to consult with OLG before recommending the referral of matters to ensure the conduct in question is sufficiently serious to warrant disciplinary action for misconduct and that there is sufficient evidence of the breach to allow OLG to take further disciplinary action.

- Other amendments have been made to the Procedures to:
 - allow panels of conduct reviewers to be appointed without a resolution of the council, and
 - allow the referral of investigators' reports to OLG for action under the misconduct provisions of the Act where the council will not have a quorum to deal with the matter.

Amendments to the Code of Conduct

- The Code of Conduct has been amended to:
 - remove as a breach, failure to comply with a council resolution requiring action in relation to a Code of Conduct breach (because it is now redundant)
 - update the language used to describe the various heads of discrimination in clause 3.6 to reflect more contemporary standards
 - include in the definition of council committee and council committee members, members of audit, risk and improvement committees (ARICs) in anticipation of the commencement of the requirement for all councils to appoint an ARIC.
- Amendments have also been made to the gifts and benefits provisions of the Code of Conduct in response to feedback from some councils. The amendments:
 - lift the \$50 cap on the value of gifts that may be accepted to \$100
 - clarify that items with a value of \$10 or less are not "gifts or benefits" for the purposes of the Code of Conduct and do not need to be disclosed.

(c) Options

1. The recommendation as printed - **this is the preferred option.**
2. Council may modify the Code of Conduct by setting higher standards than those set out in the Model Code of Conduct but, as the Model Code sets out the minimum standards of conduct for council officials, Council may not set lower standards.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Councillors and staff have recently received training in the new Code of Conduct for Leeton Shire Council. This training was allowed for in the existing budget.

(b) Policy

Code of Conduct

(c) Legislative/Statutory

Local Government Act 1993
Local Government (General) Regulation 2005

There is no requirement under the *Local Government Act 1993* for the Code of Conduct to be advertised for public consultation and to receive public submissions. The Code of Conduct is required to be based on the Model Code of Conduct as prescribed by the Office of Local Government at a minimum.

(d) Risk

The Code of Conduct is a key document that sets the minimum standards of conduct for council officials. It is prescribed by regulation in order to assist council officials to understand and comply with the standards of conduct that are expected of them, enable them to fulfil their statutory duty to act honestly, exercise a reasonable degree of care and diligence and finally to act in a way that enhances public confidence in local government.

CONSULTATION

(a) External

Office of Local Government. Note that no community consultation is required prior to Council adopting a new Code of Conduct.

(b) Internal

General Manager

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area THEME 6 - "STRONG LEADERSHIP" within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot - 20a is to "Ensure the aspirations of the community are delivered - Operate an efficient and effective Local Government Administration."

ATTACHMENTS

- 1** [↓](#) DRAFT - Leeton Shire Council Code of Conduct - February 2022
- 2** [↓](#) DRAFT - Procedures for the Administration of the Code of Conduct



LEETON
SHIRE COUNCIL

DRAFT

**LEETON SHIRE COUNCIL
CODE OF CONDUCT**

February 2022

DOCUMENT AUTHORISATION

RESPONSIBLE OFFICER	Governance Officer				
REVIEWED BY	Executive Manager IPR, Governance and Engagement				
DATE ADOPTED:					
ADOPTED BY:	Leeton Shire Council				
RESOLUTION NO: (IF RELEVANT):					
REVIEW DUE DATE:	October 2024				
REVISION NUMBER:	5				
PREVIOUS VERSIONS:	DATE	DESCRIPTION OF AMENDMENTS	AUTHOR/EDITOR	REVIEW/SIGN OFF	MINUTE NO (IF RELEVANT)
1	30 January 2013	Advice from Circular No 12-45	Director Corporate Services	Council	13/008
2	26 June 2013	Post-election review of Council policies/Formal adoption	Director Corporate Services	Council	13/136
3	27 January 2016	Advice Circular No 15-41/17	Director Corporate Services	Council	16/004
4	22 February 2017	Post-election review of Council policies/Formal adoption	Director Corporate Services	Council	17/008
5	23 February 2022	Advice of Circular 20-32 and post-election review of Council policies	Executive Manager IPR/ Governance & Engagement	Council	22/

REVIEW OF THIS CODE

This Code will be reviewed within 12 months of a Local Government election or as required in the event of legislative changes and/or new Model Code of Conduct. Any major amendments to the document must be made by way of a Council Resolution. Minor amendments such as corrections to spelling and formatting may be made without approval from the Council.

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PURPOSE

Leeton Shire Council's Code of Conduct has been developed using the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") and is made under section 440 of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation").

The Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

TO WHOM DOES THIS CODE APPLY?

Councillors, administrators, members of staff, delegates of council (including members of council committees that are delegates of a council) and any other person engaged in activities for and on behalf of Council must comply with the applicable provisions of Leeton Shire Council's Code of Conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

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

DEFINITIONS

In this code the following terms have the following meanings:

the Act	<i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 5.1 and 5.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 5.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated

designated person	a person referred to in clause 5.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the <i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

GENERAL CONDUCT OBLIGATIONS

General conduct

- 4.1 You must not conduct yourself in a manner that:
- is likely to bring the council or other council officials into disrepute
 - is contrary to statutory requirements or the council's administrative requirements or policies
 - is improper or unethical
 - is an abuse of power
 - causes, comprises or involves intimidation or verbal abuse
 - involves the misuse of your position to obtain a private benefit
 - constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 4.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the Local Government Act or any other Act (section 439).

Fairness and equity

- 4.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 4.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 4.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 4.3 or 4.4.

Harassment and discrimination

- 4.6 You must not harass or unlawfully discriminate against others or support others who harass or unlawfully discriminate against others, on the grounds of **age, disability, race (including colour, national or ethnic origin or immigrant status)** sex, pregnancy, marital or relationship status, **family responsibilities** or breastfeeding, **sexual orientation, gender identity or intersex status or political, religious or other affiliation.**
- 4.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- is not wanted by the person
 - offends, humiliates or intimidates the person, and
 - creates a hostile environment.

Bullying

- 4.8 You must not engage in bullying behaviour towards others.
- 4.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons and
 - b) the behaviour creates a risk to health and safety.
- 4.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments
 - c) spreading malicious rumours
 - d) teasing, practical jokes or 'initiation ceremonies'
 - e) exclusion from work-related events
 - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
 - g) displaying offensive material
 - h) pressure to behave in an inappropriate manner.
- 4.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
 - b) disciplinary action for misconduct
 - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
 - d) directing a worker to perform duties in keeping with their job
 - e) maintaining reasonable workplace goals and standards
 - f) legitimately exercising a regulatory function
 - g) legitimately implementing a council policy or administrative processes.

Work health and safety

- 4.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
 - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
 - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
 - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff

- e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

- 4.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 4.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

- 4.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 4.16 For the purposes of clause 4.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 4.17 Clause 4.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 4.18 Clause 4.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

Obligations in relation to meetings

- 4.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 4.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).

- 4.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 4.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PECUNIARY INTERESTS

What is a pecuniary interest?

- 5.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 5.3.
- 5.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 5.6.
- 5.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- a) your interest, or
 - b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 5.4 For the purposes of clause 5.3:
- a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 5.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 5.3(b) or (c):
- a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

- 5.6 You do not have to disclose the following interests for the purposes of this Part:
- a) your interest as an elector
 - b) your interest as a ratepayer or person liable to pay a charge
 - c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
 - d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
 - e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
 - f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
 - g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
 - h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
 - i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
 - ii) security for damage to footpaths or roads
 - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract

- j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the Act,
- l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

5.7 For the purposes of clause 5.6, "relative" has the same meaning as in clause 5.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

- 5.8 Designated persons include:
- a) the general manager
 - b) other senior staff of the council for the purposes of section 332 of the Act
 - c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
 - d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.
- 5.9 A designated person:
- (a) must prepare and submit written returns of interests in accordance with clauses 5.21, and
 - (b) must disclose pecuniary interests in accordance with clause 5.10.

- 5.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 5.11 Clause 5.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 5.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 5.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council staff other than designated persons?

- 5.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 5.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 5.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisers?

- 5.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.
- 5.17 A person does not breach clause 5.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by a council committee member?

- 5.18 A council committee member must disclose pecuniary interests in accordance with clause 5.28 and comply with clause 5.29.
- 5.19 For the purposes of clause 5.18, a "council committee member" includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

- 5.20 A councillor:
- a) must prepare and submit written returns of interests in accordance with clause 5.21, and
 - b) must disclose pecuniary interests in accordance with clause 5.28 and comply with clause 5.29 where it is applicable.

Disclosure of interests in written returns

- 5.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in Schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- a) becoming a councillor or designated person, and
 - b) 30 June of each year, and
 - c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 5.22 A person need not make and lodge a return under clause 5.21, paragraphs (a) and (b) if:
- a) they made and lodged a return under that clause in the preceding 3 months, or
 - b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 5.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 5.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 5.25 Returns required to be lodged with the general manager under clause 5.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 5.26 Returns required to be lodged with the general manager under clause 5.21(c) must be tabled at the next council meeting after the return is lodged.
- 5.27 Information contained in returns made and lodged under clause 5.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 5.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 5.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
- a) at any time during which the matter is being considered or discussed by the council or committee, or
 - b) at any time during which the council or committee is voting on any question in relation to the matter.
- 5.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 5.28 and 5.29 where they participate in the meeting by telephone or other electronic means.
- 5.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 5.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 5.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 5.6.
- 5.34 A person does not breach clauses 5.28 or 5.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 5.35 Despite clause 5.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.

- 5.36 Clause 5.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- a) the matter is a proposal relating to:
 - i. the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - ii. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 5.3) in that person's principal place of residence, and
 - c) the councillor made a special disclosure under clause 5.37 in relation to the interest before the commencement of the meeting.
- 5.37 A special disclosure of a pecuniary interest made for the purposes of clause 5.36(c) must:
- a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
 - b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 5.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - b) that it is in the interests of the electors for the area to do so.
- 5.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 5.38, must still disclose the interest they have in the matter in accordance with clause 5.28.

NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

- 6.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 5.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 6.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 6.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 6.2.
- 6.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 6.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 6.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 6.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 6.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 6.6.

- 6.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 6.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 5.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 5.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 5.6) that is not a pecuniary interest for the purposes of clause 5.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 6.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 5.28 and 5.29.
- 6.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest, you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

- 6.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 6.13 Despite clause 6.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 6.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

Political donations

- 6.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 6.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 5.28 and 5.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 6.17 For the purposes of this Part:
- a) a "reportable political donation" has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
 - b) "major political donor" has the same meaning as it has in the *Electoral Funding Act 2018*.
- 6.18 Councillors should note that political donations that are not a "reportable political donation", or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 6.9 and take the appropriate action to manage them.
- 6.19 Despite clause 6.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

- 6.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
 - i. the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - ii. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
 - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 6.6.
- 6.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - b) that it is in the interests of the electors for the area to do so.
- 6.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 6.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 6.6.

Other business or employment

- 6.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.
- 6.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.
- 6.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other

business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.

- 6.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 6.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
 - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
 - c) require them to work while on council duty
 - d) discredit or disadvantage the council
 - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

- 6.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 6.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

PERSONAL BENEFIT

- 7.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 7.2 A reference to a gift or benefit in this Part does not include:
- a) **items with a value of \$10 or less**
 - b) a political donation for the purposes of the *Electoral Funding Act 2018*
 - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
 - d) **a benefit or facility provided by the council to an employee or councillor**
 - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - f) free or subsidised meals, beverages or refreshments of token value provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i. the discussion of official business
 - ii. work-related events such as council-sponsored or community events, training, education sessions or workshops
 - iii. conferences
 - iv. council functions or events
 - v. social functions organised by groups, such as council committees and community organisations.

Gifts and benefits

- 7.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 7.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

How are offers of gifts and benefits to be dealt with?

- 7.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) subject to clause 7.7, accept any gift or benefit of more than token value as defined by clause 7.9
 - e) accept an offer of cash or a cash-like gift as defined by clause 7.13, regardless of the amount

- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
 - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 7.6 Where you receive a gift or benefit of any value other than one referred to in clause 7.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:
- a) the nature of the gift or benefit
 - b) the estimated monetary value of the gift or benefit
 - c) the name of the person who provided the gift or benefit, and
 - d) the date on which the gift or benefit was received.
- 7.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

- 7.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of **\$100**. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed **\$100**
 - b) gifts of alcohol that do not exceed a value of **\$100**
 - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
 - d) prizes or awards that do not exceed **\$100** in value.

Gifts and benefits of more than token value

- 7.9 Gifts or benefits that exceed **\$100** in value are gifts or benefits of more than token value for the purposes of clause 7.5(d) and, subject to clause 7.7, must not be accepted.
- 7.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds **\$100**, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 7.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed **\$100** in value.

- 7.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

“Cash-like gifts”

- 7.13 For the purposes of clause 7.5(e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

- 7.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the Act.
- 7.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

- 8.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the Act, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 8.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the Act
 - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
 - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the Act.
- 8.3 Despite clause 8.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

Obligations of staff

- 8.4 Under section 335 of the Act, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 8.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
 - b) ensure that their work is carried out ethically, efficiently, economically and effectively
 - c) carry out reasonable and lawful directions given by any person having authority to give such directions
 - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them

- e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

Inappropriate interactions

- 8.6 You must not engage in any of the following inappropriate interactions:
- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
 - b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
 - c) subject to clause 9.6, council staff refusing to give information that is available to other councillors to a particular councillor
 - d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
 - e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor has a right to be heard by the panel at the meeting
 - f) councillors and administrators being overbearing or threatening to council staff
 - g) council staff being overbearing or threatening to councillors or administrators
 - h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
 - i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
 - j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
 - k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
 - l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the Act.

ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

- 9.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 9.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 9.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 9.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 9.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 9.6 Despite clause 9.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

Councillors and administrators to properly examine and consider information

- 9.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the Act to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

Refusal of access to information

- 9.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 9.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 9.6). The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

- 9.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 9.14, only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
 - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 9.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 9.11 In addition to your general obligations relating to the use of council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
 - b) protect confidential information
 - c) only release confidential information if you have authority to do so
 - d) only use confidential information for the purpose for which it is intended to be used
 - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
 - g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

- 9.12 When dealing with personal information you must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*
 - b) the *Health Records and Information Privacy Act 2002*
 - c) the Information Protection Principles and Health Privacy Principles
 - d) the council's privacy management plan
 - e) the Privacy Code of Practice for Local Government

Use of council resources

- 9.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but

not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

- 9.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 9.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 9.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 9.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 9.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 9.19 You must not convert any property of the council to your own use unless properly authorised.

Internet access

- 9.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

Council record keeping

- 9.21 You must comply with the requirements of the *State Records Act 1998* and the Leeton Shire Council's records management policy & procedures.
- 9.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.

- 9.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.
- 9.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

Councillor access to council buildings

- 9.25 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 9.26 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 9.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

- 10.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 10.2 For the purposes of clause 10.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
 - b) to damage another council official's reputation
 - c) to obtain a political advantage
 - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - f) to avoid disciplinary action under the Procedures
 - g) to take reprisal action against a person for making a complaint alleging a breach of this code
 - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
 - i) to prevent or disrupt the effective administration of this code under the Procedures.

Detrimental action

- 10.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 10.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 10.5 For the purposes of clauses 10.3 and 10.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
 - b) intimidation or harassment
 - c) discrimination, disadvantage or adverse treatment in relation to employment
 - d) dismissal from, or prejudice in, employment
 - e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 10.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 10.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral

submission invited under the Procedures will not constitute a breach of this clause.

- 10.8 You must comply with a practice ruling made by the Office under the Procedures.

~~10.9 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.~~ **No longer in this code of conduct**

Disclosure of information about the consideration of a matter under the Procedures

- 10.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 10.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 10.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 10.12 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 10.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

Complaints alleging a breach of this Part

- 10.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 10.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.

SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 5.21

PART 1: PRELIMINARY

Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

address means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

de facto partner has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

disposition of property means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, license, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

gift means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

interest means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

listed company means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

occupation includes trade, profession and vocation.

professional or business association means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

property includes money.

return date means:

- a) in the case of a return made under clause 5.21 (a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 5.21 (b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 5.21 (c), the date on which the councillor or designated person became aware of the interest to be disclosed.

relative includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

PART 2: PECUNIARY INTERESTS TO BE DISCLOSED IN RETURNS

Real property

5. A person making a return under clause 5.21 of this code must disclose:
 - a) the street address of each parcel of real property in which they had an interest on the return date, and
 - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
 - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
 - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
 - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

Gifts

9. A person making a return under clause 5.21 of this code must disclose:
 - a) a description of each gift received in the period since 30 June of the previous financial year, and
 - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
 - a) it did not exceed \$500, unless it was among gifts totaling more than \$500 made by the same person during a period of 12 months or less, or
 - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - c) the donor was a relative of the donee, or
 - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

Contributions to travel

12. A person making a return under clause 5.21 of this code must disclose:
 - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.

13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
 - b) was made by a relative of the traveller, or
 - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
 - d) did not exceed \$250, unless it was among gifts totaling more than \$250 made by the same person during a 12-month period or less, or
 - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
 - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 5.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and
 - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 5.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.

20. For the purposes of clause 19 of this schedule:
- a) *close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.
 - b) *property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

Positions in trade unions and professional or business associations

21. A person making a return under clause 5.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date
 - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
 - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

Dispositions of real property

23. A person making a return under clause 5.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 5.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

Sources of income

26. A person making a return under clause 5.21 of this code must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
 - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
 - i. a description of the occupation, and
 - ii. if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and

- iii. if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the Act need not be disclosed.

Debts

31. A person making a return under clause 5.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 5.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
 - i. the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - ii. the amounts to be paid exceeded, in the aggregate, \$500, or
 - b) the person was liable to pay the debt to a relative, or
 - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
 - d) in the case of a debt arising from the supply of goods or services:
 - i. the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - ii. the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
 - e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 5.21

'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

Important information

This information is being collected for the purpose of complying with clause 5.21 of the Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 5.23 of the Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 5.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

A copy of the blank Disclosure Form appears on the following pages:



**DISCLOSURE OF PECUNIARY INTEREST AND OTHER MATTERS
 BY COUNCILLORS AND DESIGNATED PERSONS RETURN**

Disclosure of Pecuniary Interests and other matters by

.....
 (full name of councillor or designated person)

in respect of the period from 1 July 20## to 30 June 20## (return period)

.....
 (councillor's or designated person's signature)

.....
 (date)

A. Real Property		
Address of each parcel of real property in which I had an interest at any time during the return period.		Nature of interest.
B. Sources of income		
1. Sources of income I reasonably expect to receive from an occupation at any time during the return period commencing on the first day after the return date and ending on the following 30 June, 20##. Sources of income I received from an occupation at any time since 30 June, 20##:		
Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
2. Sources of income I reasonably expect to receive from a trust during the return period commencing on the first day after the return date and ending on the following 30 June, 20##. Sources of income I received from a trust since 30 June, 20##:		
Name and address of settlor		Name and address of trustee
3. Sources of other income I reasonably expect to receive from a trust during the return period commencing on the first day after the return date and ending on the following 30 June, 20##. Sources of other income I received at any time since 30 June, 20##. (Include description sufficient to identify the person from whom, or the circumstances in which, that income was received)		

C. Gifts			
Description of each gift I received at any time since 30 June, 20##.	Name and address of donor.		
D. Contributions to travel			
Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June, 20##.	Dates on which travel was undertaken.	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken.	
E. Interests and positions in corporations			
Name and address of each corporation in which I had an interest or held a position at any time during the return period.	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
F. Were you a property developer or close associate of a property developer on the return date?			
<input type="checkbox"/> YES <input type="checkbox"/> NO			
G. Positions in trade unions and professional or business associations			
Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at any time during the return period.		Description of position.	

H. Debts
Name and address of each person to whom I was liable to pay any debt at any time during the return period.
I. Dispositions of property
1. Particulars of each disposition of real property by me at any time during the return period as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time.
2. Particulars of each disposition of property to a person by any other person under arrangements made by me, being dispositions made at any time during the return period, as a result of which I obtained, either wholly or in part, the use and benefit of the property.
J. Discretionary disclosures

Office use only
Date Return received:
Received by:
Checked by:
Receipt issued:

SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 5.37

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 5.36(c) of the *Leeton Shire Council Code of Conduct* (based on clause 5.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct)).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 5.3 of Leeton Shire Council's Code of Conduct) has in that person's principal place of residence.

Clause 5.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 5.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

A copy of the blank Special Disclosure Form appears on the following pages:

 **SPECIAL DISCLOSURE OF PECUNIARY INTEREST
 SUBMITTED UNDER CLAUSE 5.37**

Special disclosure of pecuniary interests by

.....
 (full name of councillor)

in the matter of [insert name of environmental planning instrument]

.....

which is to be considered at a meeting of the [name of council or council committee (as the case requires)]

.....

to be held on theday of20.....

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor [Tick or cross one box.]	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.

¹ Clause 5.1 of the Leeton Shire Council Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 5.6 of the Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 5.3 of the Code of Conduct has a proprietary interest.

Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

.....
 (councillor's signature)

.....
 (date)

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]



LEETON
SHIRE COUNCIL

**Procedures for the
Administration of the Leeton
Shire Council Code of Conduct**
February 2022

DOCUMENT CONTROL

RESPONSIBLE OFFICER:	Governance Officer				
REVIEWED BY:	Executive Manager IPR, Governance and Engagement				
LINK TO CSP/DELIVERY PROGRAM/OPERATIONAL PLAN:					
DATE ADOPTED:	27 March 2019				
ADOPTED BY:	Leeton Shire Council				
RESOLUTION NO: (IF RELEVANT):	19/069				
FOR PUBLICATION:	<input type="checkbox"/> INTRANET <input type="checkbox"/> COUNCIL WEBSITE <input checked="" type="checkbox"/> BOTH				
REVIEW DUE DATE:	February 2022				
REVISION NUMBER:	1				
PREVIOUS VERSIONS:	DATE	DESCRIPTION OF AMENDMENTS	AUTHOR/EDITOR	REVIEW/SIGN OFF	MINUTE NO (IF RELEVANT)

REVIEW OF THIS DOCUMENT

This Procedure will be reviewed within 12 months of a Local Government General election or as required in the event of legislative changes. The Procedure may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this Procedure. Any amendment to the Procedure must be by way of a Council Resolution.

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1. Introduction

These procedures ("the Leeton Shire Council (LSC) Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation"). Section 440 of the Act requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the Act and the Regulation. Section 440AA of the Act requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

Note: References in these procedures to councils are also to be taken as references to county councils and joint organisations.

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

2. Definitions

In these procedures the following terms have the following meanings:

the Act	the Local Government Act 1993
Administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Code of Conduct	a code of conduct adopted under section 440 of the Act
Code of Conduct Complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
Complainant	a person who makes a code of conduct complaint
Complainant Councillor	a councillor who makes a code of conduct complaint
Complaints Coordinator	a person appointed by the general manager under these procedures as a Complaint's Coordinator
Conduct Reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
Council	includes county councils and joint organisations
Council Committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
Council Committee Member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
Councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and

	voting representatives of the boards of joint organisations and chairpersons of joint organisations
Council Official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 5.16 of the Leeton Shire Council Code of Conduct, council adviser
Delegate of Council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
External Agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
General Manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
Joint Organisation	a joint organisation established under section 400O of the Act
Mayor	includes the chairperson of a county council or a joint organisation
Members of Staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
Investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
Respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
Wholly Advisory committee	a council committee that council has not delegated any functions to

3. Administrative Framework

The Establishment of a Panel of Conduct Reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
 - a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the Public Interest Disclosures Act 1994, and
 - c) knowledge and experience of one or more of the following:
 - i. investigations
 - ii. law
 - iii. public administration

- iv. public sector ethics
 - v. alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or
 - d) an employee of a council, or
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

The Appointment of an Internal Ombudsman to a Panel of Conduct Reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's Complaints Coordinator. For the purposes of clause

6.1, an internal ombudsman who is a council's Complaints Coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.

- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

The Appointment of Complaints Coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a Complaints Coordinator. Where the Complaints Coordinator is a member of staff of the council, the Complaints Coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaint's coordinator.
- 3.19 The general manager must not undertake the role of Complaints Coordinator.
- 3.20 The person appointed as Complaints Coordinator or alternate Complaints Coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the Public Interest Disclosures Act 1994.
- 3.21 The role of the Complaints Coordinator is to:
- coordinate the management of complaints made under the council's code of conduct
 - liaise with and provide administrative support to a conduct reviewer
 - liaise with the Office and
 - arrange the annual reporting of code of conduct complaints statistics.

4. How May Code of Conduct Complaints be Made?

What is a Code of Conduct Complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- complaints about the standard or level of service provided by the council or a council official
 - complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
 - complaints about the policies or procedures of the council
 - complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.

- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When Must a Code of Conduct Complaint be Made?

- 4.4 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after three months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

How may a Code of Conduct Complaint About a Council Official Other than the General Manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a Code of Conduct Complaint about the General Manager be Made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.

- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

5. How are Code of Conduct Complaints to be Managed?

Delegation by General Managers and Mayors of Their Functions under this Part

- 5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

Consideration of Complaints by General Managers and Mayors

- 5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

What Complaints may be Declined at the Outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- is not a code of conduct complaint, or
 - subject to clause 4.5, is not made within three months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
 - is trivial, frivolous, vexatious or not made in good faith, or
 - relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
 - is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are Code of Conduct Complaints about Staff (other than the general manager) to be dealt with?

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are Code of Conduct Complaints about Delegates of Council, Council Advisers and Council Committee Members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
 - a) censure
 - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
 - c) prosecution for any breach of the law
 - d) removing or restricting the person's delegation
 - e) removing the person from membership of the relevant council committee.

- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
 - b) the person must be given an opportunity to respond to the allegation, and
 - c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are Code of Conduct Complaints about Administrators to be dealt with?

- 5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.
- 5.19 The general manager must notify the complainant of the referral of their complaint in writing.

How are Code of Conduct Complaints about Councillors to be dealt with?

- 5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the Act)
 - c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.
- 5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this

shall finalise the consideration of the matter under these procedures.

- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the Complaints Coordinator.

How are Code of Conduct Complaints about the General Manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the Complaints Coordinator.

How are Complaints about both the General Manager and the Mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or

- b) refer the matter to the Complaints Coordinator under clause 5.26 and clause 5.33.

Referral of Code of Conduct Complaints to External Agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

Disclosure of the Identity of Complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- the complainant consents in writing to the disclosure, or
 - it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
 - it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
 - a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
 - it is otherwise in the public interest to do so.
- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of Conduct Complaints made as Public Interest Disclosures

- 5.45 These procedures do not override the provisions of the Public Interest Disclosures Act 1994. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special Complaints Management Arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
 - b) impeded or disrupted the effective administration by the council of its code of conduct, or
 - c) impeded or disrupted the effective functioning of the council.
- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a) the code of conduct complaints the arrangement relates to, and
 - b) the period that the arrangement will be in force.
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the Complaints Coordinator in writing of their determination and the reasons for their determination. The Complaints Coordinator must comply with the recommendation of the assessing OLG officer.
- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be

renewed or amended.

- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

6. Preliminary Assessment of Code of Conduct Complaints about Councillors or the General Manager by Conduct Reviewers

Referral of Code of Conduct Complaints about Councillors or the General Manager to Conduct Reviewers

- 6.1 The Complaints Coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the Complaints Coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the Complaints Coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the Complaints Coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 6.2 of the Leeton Shire Council Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

- 6.7 Where the Complaints Coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The Complaints Coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The Complaints Coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the Complaints Coordinator is satisfied that the conduct reviewer has failed to:
 - a) comply with these procedures in their consideration of the matter, or
 - b) comply with a lawful and reasonable request by the Complaints Coordinator, or
 - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the Complaints Coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary Assessment of Code of Conduct Complaints about Councillors or the General Manager by a Conduct Reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the Complaints Coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaint's coordinator:
 - a) to take no action
 - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - d) to refer the matter to an external agency
 - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the Complaints Coordinator to provide such additional

information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The Complaints Coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b) that the alleged conduct is sufficiently serious to warrant **the formal censure of a councillor under section 440G of the Act or disciplinary action against the general manager under their contract of employment if it were to be proven**, and
 - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant **formal censure of a councillor under section 440G of the Act or disciplinary action against the general manager under their contract of employment**, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
 - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the Complaints Coordinator and notify the Complaints Coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral Back to the General Manager or Mayor for Resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaint's Assessment Criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
 - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
 - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
 - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
 - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
 - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
 - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
 - i) any previous proven breaches of the council's code of conduct
 - j) whether the conduct complained of forms part of an ongoing pattern of behaviour
 - k) whether there were mitigating circumstances giving rise to the conduct complained of
 - l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
 - m) the significance of the conduct or the impact of the conduct for the council

- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

7. Investigations of Code of Conduct Complaints about Councillors or the General Manager

What Matters may a Conduct Reviewer Investigate?

- 7.1 A conduct reviewer (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the Complaints Coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are Investigations to be Commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
 - a) disclose the substance of the allegations against the respondent, and
 - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c) advise of the process to be followed in investigating the matter, and
 - d) advise the respondent of the requirement to maintain confidentiality, and
 - e) invite the respondent to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice, and
 - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the Complaints Coordinator and the general manager, or

in the case of a complaint about the general manager, to the complainant, the Complaints Coordinator and the mayor.

The notice must:

- a) advise them of the matter the investigator is investigating, and
- b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
- c) invite the complainant to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice.

Written and Oral Submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are Investigations to be Conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the Complaints Coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The Complaints Coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or Resolution of a Matter After the Commencement of an Investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the Complaints Coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the Complaints Coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft Investigation Reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.

- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final Investigation Reports

- 7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.
- 7.36 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent
 - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
 - c) a statement of reasons as to the matter warranted investigation (having regard to the criteria specified in clause 6.23)
 - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
 - e) a description of any attempts made to resolve that matter by use of alternative means
 - f) the steps taken to investigate the matter
 - g) the facts of the matter
 - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - i) the investigator's determination and the reasons for that determination
 - j) any recommendations
- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- ~~a) that the council revise any of its policies, practices or procedures~~
 - ~~b) that the respondent undertake any training or other education relevant to the conduct-~~

~~giving rise to the breach~~

- ~~c) that the respondent be counselled for their conduct~~
- ~~d) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative~~
- ~~e) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation~~
- ~~f) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation~~
- ~~g) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered~~
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
- b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act, or
- c) in the case of a breach by a councillor, that the council resolves as follows:
 - i. that the councillor be formally censured for the breach under section 440G of the Act, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the Act.

7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.

7.39 In making a recommendation under clause 7.36, the investigator may have regard to the following:

- ~~a) the seriousness of the breach~~
- ~~b) whether the breach can be easily remedied or rectified~~
- ~~c) whether the respondent has remedied or rectified their conduct~~
- ~~d) whether the respondent has expressed contrition~~
- ~~e) whether there were any mitigating circumstances~~
- ~~f) the age, physical or mental health or special infirmity of the respondent~~
- ~~g) whether the breach is technical or trivial only~~
- ~~h) any previous proven breaches~~
- ~~i) whether the breach forms part of an ongoing pattern of behaviour~~
- ~~j) the degree of reckless intention or negligence of the respondent~~
- ~~k) the extent to which the breach has affected other parties or the council as a whole~~
- ~~l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct~~
- ~~m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny~~
- ~~n) whether an educative approach would be more appropriate than a punitive one~~
- ~~o) the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action~~
- ~~p) what action or remedy would be in the public interest.~~

7.39 Where the investigator has determined that there has been a breach of the code of

conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.

- ~~7.40 — At a minimum, the investigator's final report must contain the following information:~~
- ~~a) — a description of the allegations against the respondent~~
 - ~~b) — the relevant provisions of the code of conduct that apply to the alleged conduct investigated~~
 - ~~c) — a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)~~
 - ~~d) — a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means~~
 - ~~e) — a description of any attempts made to resolve the matter by use of alternative means~~
 - ~~f) — the steps taken to investigate the matter~~
 - ~~g) — the facts of the matter~~
 - ~~d) — the investigator's findings in relation to the facts of the matter and the reasons for these findings~~
 - ~~e) — the investigator's determination and the reasons for that determination~~
 - ~~f) — any recommendations.~~
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
 - b) that a person or persons undertake any training or other education.
- 7.41 The investigator must provide a copy of their report to the Complaints Coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the Complaints Coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - b) the investigator's determination and the reasons for that determination
 - c) any recommendations, and
 - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the Complaints Coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation ~~or recommendations~~ under clause 7.37, ~~paragraph (a) only~~, the Complaints Coordinator must, where practicable, arrange for the investigator's report to the ~~general manager~~ next ordinary council meeting for council's consideration, unless the meeting is to be held within the four weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.
- ~~7.45 — Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs~~

~~(b) or (c) only, the Complaints Coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.~~

7.45 Where it is apparent to the Complaints Coordinator that the council will not be able to form a quorum to consider the investigator's report, the Complaints Coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

~~7.46—Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)), the Complaints Coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.~~

Consideration of the Final Investigation Report by Council

7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37. ~~paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).~~

7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the Act.

7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.

7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation.

7.50 Once the respondent has made their submission, they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

7.52 Prior to imposing a sanction, the council may by resolution:

- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
- b) seek an opinion from the Office in relation to the report.

7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.

- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.55 Where the investigator prepares a supplementary report, they must provide copies to the Complaints Coordinator who shall provide a copy each to the council and the respondent.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the Complaints Coordinator.
- 7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 A council may by resolution impose one or more of the following sanctions on a respondent:
- ~~i. that the respondent undertake any training or other education relevant to the conduct giving rise to the breach~~
 - ~~ii. that the respondent be counselled for their conduct~~
 - ~~iii. that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative~~
 - ~~iv. that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution~~
 - ~~v. that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution~~
 - ~~vi. that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting~~
 - ~~vii. in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach~~
 - ~~viii. in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA~~
 - ~~ix. in the case of a breach by a councillor:~~
 - ~~i. that the councillor be formally censured for the breach under section 440G of the LGA, and~~
 - ~~ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.~~
 - a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act, or
 - c) in the case of a breach by a councillor:
 - i. that the councillor be formally censured for the breach under section 440G of the Act, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the Act.
- ~~7.59 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.~~
- 7.59 Where the council censures a councillor under section 440G of the Act, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should

be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.

~~7.60 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.~~

7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

7.61 ~~Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the Complaints Coordinator must notify the Office of the council's decision and the reasons for it., the Complaints Coordinator must notify the Office of the council's decision and the reasons for it.~~

8. Oversight and Rights of Review

The Office's Powers of Review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the Complaints Coordinator and any other affected persons, of the outcome of the review.

Complaints about Conduct Reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

Practice Rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.

- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Review of Decisions to Impose Sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator, or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the Complaints Coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The Complaints Coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the Complaints Coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.

Where the Office recommends that the decision to impose a sanction be reviewed:

- a) the Complaints Coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within four weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting, following the election, and
- b) the council must:
 - i. review its decision to impose the sanction, and
 - ii. consider the Office's recommendation in doing so, and

iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.

~~8.20—In the case of a sanction implemented by the general manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:~~

- ~~a) the Complaints Coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the mayor, and~~
- ~~b) the general manager or mayor must review any action taken by them to implement the sanction, and~~
- ~~c) the general manager or mayor must consider the Office's recommendation in doing so.~~

~~8.21—In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:~~

- ~~a) the Complaints Coordinator must, where practicable, arrange for the Office's—
—determination to be tabled at the next ordinary council meeting unless the meeting is to
—be held within the 4 weeks prior to an ordinary local government election, in which case
—it must be tabled at the first ordinary council meeting following the election, and~~
- ~~b) the council must:
 - ~~i. review its decision to impose the sanction, and~~
 - ~~ii. consider the Office's recommendation in doing so, and~~
 - ~~iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.~~~~

8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

9. Procedural Irregularities

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
 - a) the non-compliance is isolated and/or minor in nature, or
 - b) reasonable steps are taken to correct the non-compliance, or
 - c) reasonable steps are taken to address the consequences of the non-compliance.

10. Practice Directions

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

11. Reporting Statistics on Code of Conduct Complaints about Councillors and the General Manager

- 11.1 The Complaints Coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
 - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
 - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
 - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
 - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
 - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
 - g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

12. Confidentiality

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
 - b) the Complaints Coordinator

- c) the Office, and
 - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.

ITEM 8.5 COUNCIL MEETING DATES MARCH 2022 TO FEBRUARY 2023

RECORD NUMBER	21/448
RELATED FILE NUMBER	EF21/44
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to present to Council a proposed timetable for Council Meetings for the period 1 March 2022 to 28 February 2023.

RECOMMENDATION

THAT Council adopts the following:

1. Ordinary Council Meetings be held on the fourth Wednesday of every month excluding January 2023 to allow for school holidays, with the dates being:
 - Wednesday 23 March 2022
 - Wednesday 27 April 2022
 - Wednesday 25 May 2022
 - Thursday 23 June 2022
 - Wednesday 27 July 2022
 - Wednesday 24 August 2022
 - Wednesday 28 September 2022
 - Thursday 27 October 2022
 - Wednesday 23 November 2022
 - Wednesday 14 December 2022
 - Wednesday 22 February 2023
 2. An Extraordinary Council Meeting be held on Wednesday 11 May 2022 for the purpose of endorsing the Annual Budget and revised Delivery Program and Operational Plan.
 3. Council Meetings will be held at 7pm.
 4. In the case of an urgent administrative matter or emergency situation and after consultation with the Mayor the General Manager, the date, time and location of a Council Meeting may be altered by giving as much notice to the Councillors and the public as is practicable.
-

REPORT

(a) Background

Section 365 of the *Local Government Act 1993* requires Council to meet at least ten times per year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a Council is required to meet each year under section 365A.

In the past, Council has held its Ordinary Council meetings at 7pm on the fourth Wednesday of each month, with some variations to avoid school holidays and state or national conferences, where relevant.

(b) Discussion

NSW School terms for 2022 are as follows:

- Term 1 – 28 January 2022 to 8 April 2022
- Term 2 – 26 April 2022 to 1 July 2022
- Term 3 – 18 July 2022 to 23 September 2022
- Term 4 – 10 October 2022 to 20 December 2022

It is proposed that the timetable for Ordinary Council Meetings continue to adhere to the traditional 7pm on the 4th Wednesday of every month except for the months of December and January. The summer school holidays run from 20 December 2022 to 26 January 2023.

The proposed dates for Ordinary Council Meetings from 1 March 2022 to 28 February 2023 are as follows:

- Wednesday 23 March 2022
- Wednesday 27 April 2022
- Wednesday 25 May 2022
- Thursday 23 June 2022
- Wednesday 27 July 2022
- Wednesday 24 August 2022
- Wednesday 28 September 2022
- Thursday 27 October 2022
- Wednesday 23 November 2022
- Wednesday 14 December 2022
- Wednesday 22 February 2023

Note 1: The National General Assembly of Local Government will be held on 20–22 June 2022 in Canberra.

Note 2: The LGNSW Annual Conference will take place from 24–26 October 2022 in The Hunter Valley.

The timeframe for the development and adoption of the revised Delivery Program and Operational Plan and Budget is tight and we need to allow for the documents to be placed on public exhibition for 28 days prior to adoption. For this reason, it is proposed that an Extraordinary Council Meeting be held on Wednesday 12 May 2021 for the purpose of endorsing the documents for public exhibition.

(c) Options

Council could decide on alternative dates to those recommended if it is so desired.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Nil

(b) Policy

Nil

(c) Legislative/Statutory

Section 365 of the *Local Government Act 1993* requires Council to meet at least ten times per year, each time in a different month.

(d) Risk

Nil

CONSULTATION

(a) External

Council meeting dates will be advertised in the newspaper and on Council's website.

(b) Internal

Group Manager Corporate
Manager Finance

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot – 20 d - Strive to deliver the aspirations of the community through effective workforce and technology managements".

ATTACHMENTS

There are no attachments for this report

ITEM 8.6 APPOINTMENT OF MEMBERS TO THE AUDIT, RISK AND IMPROVEMENT COMMITTEE FOR THE CURRENT COUNCIL TERM

RECORD NUMBER	22/20
RELATED FILE NUMBER	EF21/429
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to gain Council's approval to appoint a new membership of the Audit, Risk and Improvement Committee for the current term of Council.

RECOMMENDATION

THAT Council appoints:

1. Mr Graham Bradley as the Independent Chair of the Audit, Risk and Improvement Committee
 2. Mr Bill Robertson and Mr Emerson Doig as Independent Members of the Audit, Risk and Improvement Committee
 3. Cr Tracey Morris as Council's voting representative on the Audit Risk and Improvement Committee
 4. Cr Matt Holt as Council's non-voting/alternate representative on the Audit Risk and Improvement Committee.
-

REPORT

(a) Background

Membership of Council's previous Audit, Risk and Improvement Committee (ARIC) expired with the previous term of Council. It is now necessary to appoint members to the ARIC for the current Council term.

The ARIC Charter (**Attachment 1**) allows for a minimum of two and up to three independent members and two Councillors, one voting and one non-voting.

(b) Discussion

Council advertised for Expressions of Interest (EOI) from members of the community interested in serving as committee members of the ARIC in December and January 2021.

Four Expressions of Interest were received. They are included as Confidential Attachments (**Attachments 2–5**) to this report.

Council would like to take this opportunity to thank the four people who expressed interest in serving on the Audit, Risk and Improvement Committee.

Three of the Expressions of Interest were received from members of the previous ARIC, one of whom has an accounting/audit background and who served as the Independent Chair. One of the other previous members has a background in engineering and the other has a background in information technology.

The fourth EOI was from a community member with considerable experience in business continuity, and Work Health and Safety risk management.

One of the primary roles of the Audit, Risk and Improvement Committee is to maintain oversight of the financial management of Leeton Shire Council. It is, therefore, considered prudent to retain the services of the previous ARIC Chair.

In view of the importance of information technology to our organisation and the number of capital projects Council currently has underway, it is also considered prudent to retain the services of the other two members of the previous ARIC.

(c) Options

Option 1

THAT Council appoints Mr Graham Bradley, Mr Emerson Doig and Mr Bill Robertson as the independent members of the ARIC, with Mr Bradley taking on the role of Chair, and appoints Cr Tracey Morris and Cr Matt Holt as the Councillor members as the voting and non-voting Councillor members. **This is the preferred option.**

Option 2

THAT Council appoints all four of the people who submitted an expression of interest, with the fourth person serving as a non-voting independent member. Option 2 would require an amendment to the ARIC Charter, which currently allows for a minimum of two and maximum of three independent external members.

Option 3

That Council appoints only two independent members to the Committee, the minimum number allowed by the ARIC Charter.

Option 4

That Council appoints two alternative Councillors to those recommended for the Councillor member positions on the ARIC.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

The previous Chairman of the ARIC was paid a fee of \$2,500 per meeting from the internal audit budget. The new Chair will also be paid this amount. The other members kindly serve on a volunteer basis.

(b) Policy

Nil

(c) Legislative/Statutory

Local Government Act 1993
Local Government (General) Regulation 2021

(d) Risk

Council has a wide range of compliance obligations and failure to meet these can have significant repercussions including not only legal and financial consequences, but also reputational risk. Failing to demonstrate an active commitment to compliance can undermine Council's perceived integrity.

The Charter states that the role of the Audit, Risk and Improvement Committee is to provide independent assurance and assistance to Leeton Shire Council (Council) on risk management, control, governance, and external accountability responsibilities as well as for the purposes of quality assurance and continuous improvement.

CONSULTATION

(a) External

Leeton Shire Community through an open Expression of Interest process to identify potential independent members of the Audit, Risk and Improvement Committee.

(b) Internal

General Manager
Group Manager – Corporate

[LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN \(DPOP\)](#)

Under the Key Priority Area THEME 6 - "STRONG LEADERSHIP" within Council's adopted Delivery Program/Operational Plan – 19 - A community that speaks up and gets involved - 19c is to "Provide a framework for inclusive decision making - Coordinate an active Council Committee program".

[ATTACHMENTS](#)

- 1 [↓](#) Audit Risk and Improvement Committee Charter
- 2 1. Expression of Interest - EOI - Membership of ARIC 2022-2024 - *Attached separately* - **Confidential**
- 3 2. Expression of Interest - EOI - Membership of ARIC 2022-2024 - *Attached separately* - **Confidential**
- 4 3. Expression of Interest - EOI - Membership of ARIC 2022-2024 - *Attached separately* - **Confidential**
- 5 4. Expression of Interest - EOI - Membership of ARIC 2022-2024 - *Attached separately* - **Confidential**



LEETON
SHIRE COUNCIL

AUDIT, RISK AND IMPROVEMENT CHARTER

SEPTEMBER 2018

DOCUMENT AUTHORISATION

RESPONSIBLE OFFICER	Governance and Corporate Planning Coordinator				
REVIEWED BY	Director Corporate and Community				
DATE ADOPTED:	26 September, 2018				
ADOPTED BY:	Leeton Shire Council				
RESOLUTION NO: (IF RELEVANT):	18/172				
REVIEW DUE DATE:	February 2021				
REVISION NUMBER:	1				
PREVIOUS VERSIONS:	DATE	DESCRIPTION OF AMENDMENTS	AUTHOR/EDITOR	REVIEW/SIGN OFF	MINUTE NO (IF RELEVANT)

REVIEW OF THIS CHARTER

This Charter will be reviewed every four (4) years, following the election of a new Council or as required in the event of legislative changes. The Charter may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this Charter. Any amendment to the Charter must be by way of a Council Resolution.

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1. What is this Charter for?

The Audit, Risk and Improvement Committee (Committee) is to provide independent assurance and assistance to Leeton Shire Council (Council) on risk management, control, governance, and external accountability responsibilities as well as for the purposes of quality assurance and continuous improvement. This Charter sets out the framework in which the Committee will operate.

2. Who does this Charter apply to?

This Charter applies to all Councillors and Council employees as well as the independent members of the Audit, Risk and Improvement Committee. It is also to be referenced as a guidance document by Subject Matter Experts (SMEs) contracted to undertake the internal audit functions in accordance with the Committee's adopted workplan.

3. Committee Structure and Tenure

The Committee will consist of:

Members (voting)

Two (2) Councillors – one voting and one non-voting (to act as alternate if required).

Minimum Two (2) and up to three (3) Independent external members (not a member of the Council) one of which will be appointed as an Independent chair of the committee.

Attendee (non-voting)

Relevant Internal Auditor/s (SMEs);

Director, Corporate & Community; and

Governance and Corporate Planning Coordinator (Internal Audit Coordinator)

Invitees (non-voting) for specific Agenda items

Representatives of the external auditor.

Other officers may attend by invitation as requested by the Committee or General Manager.

All Councillors (other than Committee Members) are welcome to attend meetings as observers.

The independent external members will be appointed for the term of Council, after which they will be eligible for extension or re-appointment.

The members of the Committee, taken collectively, will have a broad range of skills and experience relevant to the operations of Council. At least one member of the Committee should have accounting or related financial management experience, with understanding of accounting and auditing standards in a public sector environment.

4. Outcomes

This Charter is based on the guidelines issued by the Chief Executive of the Office of Local Government pursuant to s. 23A of the *Local Government Act 1993* and is consistent with best practice. It is intended to add value and drive the qualities of effective local government; being openness, transparency and accountability. The Committee helps Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

5. Authority of Committee

The Council authorises the Committee, within the scope of its role and responsibilities, to:

- Obtain any information it needs from any employee or external party (subject to their legal obligations to protect information).
- Discuss any matters with the external auditor or other external parties (subject to confidentiality considerations).
- Request the attendance of any employee or councillor at Committee meetings.
- Obtain external legal or other professional advice considered necessary to meet its responsibilities.

6. Roles and Responsibilities

The Committee is advisory and has no executive powers, except those expressly provided by the Council.

In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of Council rests with the Council and the General Manager as defined by the Local Government Act.

The responsibilities of the Committee may be revised or expanded by the Council from time to time. The Committee's responsibilities are:

6.1 Risk Management

- Review whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud;
- Review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings;
- Review the impact of the risk management framework on its control environment and insurance arrangements; and
- Review whether a sound and effective approach has been followed in establishing business continuity planning arrangements, including whether plans have been tested periodically.

6.2 Control Framework

- Review whether management has adequate internal controls in place, including over external parties such as contractors and advisors;
- Review whether management has in place relevant policies and procedures, and these are periodically reviewed and updated;
- Progressively review whether appropriate processes are in place to assess whether policies and procedures are complied with;
- Review whether appropriate policies and procedures are in place for the management and exercise of delegations; and
- Review whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.

6.3 External Accountability

- Satisfy itself the annual financial reports comply with applicable Australian Accounting Standards and supported by appropriate management sign-off on the statements and the adequacy of internal controls;
- Review the external audit opinion, including whether appropriate action has been taken in response to audit recommendations and adjustments;
- To consider contentious financial reporting matters in conjunction with Council's management and external auditors;
- Review the processes in place designed to ensure financial information included in the annual report is consistent with the signed financial statements;

- Satisfy itself there are appropriate mechanisms in place to review and implement, where appropriate, relevant State Government reports and recommendations;

6.4 Legislative Compliance

- Determine whether management has appropriately considered legal and compliance risks as part of risk assessment and management arrangements.
- Review the effectiveness of the system for monitoring compliance with relevant laws, regulations and associated government policies.

6.5 Internal Audit

- Act as a forum for communication between the Council, General Manager, senior management, internal audit and external audit.
- Review the internal audit coverage and Internal Audit Plan, ensure the plan has considered the Risk Management Plan, and approve the plan.
- Consider the adequacy of internal audit resources to carry out its responsibilities, including completion of the approved Internal Audit Plan.
- Review all audit reports and consider significant issues identified in audit reports and action taken on issues raised, including identification and dissemination of better practices.
- Monitor the implementation of internal audit recommendations by management.
- Periodically review the Internal Audit Charter to ensure appropriate organisational structures, authority, access and reporting arrangements are in place.
- Periodically review the performance of Internal Audit bi-annually.

6.6 External Audit

- Act as a forum for communication between the Council, General Manager, senior management, internal audit and external audit.
- Provide input and feedback on the financial statement and performance audit coverage proposed by external audit, and provide feedback on the external audit services provided.
- Review all external plans and reports in respect of planned or completed external audits, and monitor the implementation of audit recommendations by management.
- Consider significant issues raised in relevant external audit reports and better practice guides, and ensure appropriate action is taken.

6.7 Responsibilities of Members

Members of the Committee are expected to:

- Understand the relevant legislative and regulatory requirements appropriate to Council.
- Contribute the time needed to study and understand the papers provided.
- Apply good analytical skills, objectivity and good judgment.
- Express opinions frankly, ask questions that go to the fundamental core of issues, and pursue independent lines of enquiry.

7. Reporting

Annually, Internal Audit will provide a performance report of:

- The performance of Internal Audit for the financial year as measured against agreed key performance indicators.
- The approved Internal Audit Plan of work for the previous financial year showing the current status of each audit.

The Committee may, at any time, consider any other matter it deems of sufficient importance to do so. In addition, at any time an individual Committee member may request a meeting with the Chair of the Committee. The Committee will report regularly, and at least annually, to the governing body of council on the management of risk and internal controls.

8. Administrative Arrangements

8.1 Meetings

The Committee will meet at least four times per year, with one of these meetings to include review and endorsement of the annual audited financial reports and external audit opinion. The Committee may meet annually with the Internal Audit Coordinator and/or SMEs contracted to undertake internal audit functions in the absence of other staff.

The need for any additional meetings will be decided by the Chair of the Committee, though other Committee members may make requests to the Chair for additional meetings.

A forward meeting plan, including meeting dates and agenda items, will be agreed by the Committee each year. The forward meeting plan will cover all Committee responsibilities as detailed in this Audit Committee Charter.

8.2 Attendance at Meetings and Quorums

A quorum will consist of a majority of Committee members, including at least one independent member. Meetings can be held in person, by telephone or by video conference.

The Committee may also request the General Manager or any other employees to participate for certain agenda items, as well as the external auditor.

8.3 Secretariat

The Committee has appointed the Business Support Officer – Corporate and Community to provide secretariat support to the Committee. The Secretariat will ensure that the agenda for each meeting and supporting papers are circulated, at least one week before the meeting, and ensure minutes of the meetings are prepared and maintained. Minutes of the meeting will record all voting details for each item resolved by the Committee.

Minutes shall be approved by the Chair and circulated to each member within three weeks of the meeting being held. Minutes of the meeting will be published by Council subject to any confidentiality requirements relating to particular items in accordance with the *Local Government Act, 1993*.

8.4 Public comment and media statements

All public comments and media statements representing Leeton Shire Council must be approved by the General Manager and/or The Mayor

8.5 Conflicts of Interest

Councillors, council staff and members of council committees must comply with the applicable provisions of Council's Code of Conduct in carrying out of the functions as council officials. It is the personal responsibility of council officials to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.

Committee members must declare any conflicts of interest at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted. Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

8.6 Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities, specifically in relation to Code of Conduct and Protected Disclosures training.

8.7 Assessment Arrangements

The Chair of the Committee, in consultation with the Council, will establish performance measures for the Committee and implement measurement, feedback, reporting and review mechanisms relating to those measures.

Additionally, the Chair will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Chair), with appropriate input from Senior Management and any other relevant stakeholders, as determined by the Chair.

The review will also be included in the Committee's annual report to Council.

8.8 Remuneration

Independent Chairs of the Audit, Risk and Improvement Committee will receive a stipend of up to \$2500 plus disbursements when attending Committee meetings. Independent Committee members will participate on a voluntary basis.

8.9 Review of Audit Committee Charter

At least once every four years the Audit, Risk and Improvement Committee will review this Committee Charter. The Audit, Risk and Improvement Committee will recommend any changes to this Committee Charter to the elected Council for endorsement.

8.10 Vacancy

If for any reason a vacancy in the Committee membership occurs, the position(s) shall be filled in accordance with this Charter and Council's appointment of Committee member processes.

9. Related Documents

- Local Government Act 1993
- Local Government (General) Regulation 2005
- Leeton Shire Council Code of Conduct
- Accounting Procedures
- Borrowing and Use of Loan Funds
- Code of Meeting Practice
- Complaints Handling
- Debt Management Rates Sundry Debtors
- Delegations of Authority
- Donations/Assistance and Sponsorship Policy
- Fees and Charges
- Finance – Investments
- Finance – Private Works
- Finance – Revotes
- Finance Supplementary Budget Allocations
- Financial Hardship
- Gifts and Benefits
- Internal Reporting
- Local Preference Policy
- Payment of Expenses & Provision of Facilities to Mayor & Councillors Policy
- Pensioner Concessions
- Privacy Management Plan
- Procurement Manual
- Regulatory Activities – Enforcement and Prosecution
- Risk Management Policy

ITEM 8.7 DRAFT MOTIONS FOR SUBMISSION TO THE 2022 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT

RECORD NUMBER	22/9
RELATED FILE NUMBER	EF21/130
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to seek Council's endorsement of draft motions to be submitted for debate at the National General Assembly of Local Government to be held in Canberra 19–22 June 2022.

RECOMMENDATION

THAT Council endorses the following motions for submission to the 2022 National General Assembly of Local Government:

1. **Improve health access and outcomes in rural, regional and remote Australia:** This National General Assembly calls on the Australian Government to partner with State and Territory Governments to drive improvements in health access and outcomes in rural, regional and remote Australia, including exploring innovative models of care and more flexible allocation of funding.
 2. **Restore Financial Assistance Grants (FAGS):** This National General Assembly calls on the Australian Government to:
 - restore Local Government Financial Assistance Grants to a level equal to at least 1% of Commonwealth taxation revenue
 - remove the requirement to allocate 30% of the General Purpose Component of Financial Assistance Grants on the basis of population increases/decreases.
-

REPORT

(a) Background

The National General Assembly of Local Government will be held on 19–22 June 2022 in Canberra.

Convened annually by the Australian Local Government Association (ALGA), the National General Assembly of Local Government is the peak annual event for Local Government, attracting in excess of 800 Mayors and Councillors each year.

The theme for the 2022 National General Assembly is "Partners in Progress". The theme puts the focus on how partnerships, particularly between the Australian Government and Local Governments, can tackle immediate challenges facing communities as well as confidently facing the future.

The Assembly is an important opportunity for Leeton Shire Council to influence the national policy agenda and the ALGA is calling for the submission of Notices of Motion for the National General Assembly 2022. The deadline for motion submissions is Friday 25 March 2022.

To be eligible for inclusion in the National General Assembly Business Papers and subsequent debate on the floor of the National General Assembly, motions must:

1. Be relevant to the work of local government nationally
2. Not be focussed on a specific location or region – unless the project has national implications. You will be asked to justify why your motion has strategic importance and should be discussed at a national conference
3. Be consistent with the themes of the National General Assembly
4. Complement or build on the policy objectives of your state and territory local government association
5. Be from a council which is a financial member of their state or territory local government association
6. Propose a clear action and outcome i.e. call on the Australian Government to do something
7. Not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

(b) Discussion

Two motions have been drafted for Council's endorsement, with supporting commentary included, as suggested by the National General Assembly guidelines.

In recognition of our community's concerns over health service access and outcomes, one of the draft Motions calls on the Australian Government to work in partnership with State and Territory Governments to drive improvements in health access outcomes in rural, regional and remote Australia. This motion and supporting commentary is included as **Attachment 2**.

The second draft motion requests that the Australian Government increase Financial Assistance Grants (FAGs), which are paid to local councils to help them deliver services to local communities. The motion was drafted in response to the fact that FAGs, as a proportion of Commonwealth tax revenue, have been steadily declining since the year 2000 and are now just 0.55% of Commonwealth tax income.

The second draft motion also calls for the Australian government to remove the requirement to allocate 30% of a component of the FAGs on the basis of population as this requirement disadvantages councils with smaller/declining populations and promotes inequality. This motion and supporting commentary is included as **Attachment 3**.

(c) Options

The submission of motions by local councils to the National General Assembly is optional.

Council may amend the wording of the proposed draft motions to better reflect their intentions.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

There is no cost for submission of motions.

The cost of attending the 2022 National General Assembly is covered in the adopted budget.

(b) Policy

Relevant local and regional policy positions in relation to the six topic areas have been reflected in the draft motions.

(c) Legislative/Statutory

Nil

(d) Risk

The motions as prepared are intended to address policy gaps that negatively impact on the wellbeing of residents of Leeton Shire, with joint advisory by the national collective of Councils via the ALGA.

CONSULTATION

(a) External

If endorsed, the motions will be submitted to ALGA for inclusion in their 2022 National General Assembly agenda.

(b) Internal

The draft motions were prepared with the guidance of the General Manager.

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area THEME 6 - "STRONG LEADERSHIP" within Council's adopted Delivery Program/Operational Plan – 18 - A community that has politicians who act and listen - 18c is to Ensure strong working relationships at a Federal and State level - Continue advocacy with Federal and Local MP's on Key Issues for the region.

ATTACHMENTS

- 1 [↓](#) ALGA - National General Assembly Call For Motions Discussion Paper 2022
- 2 [↓](#) Motion - Improve Health Access and Outcomes in Rural, Regional and Remote Australia
- 3 [↓](#) Draft Motion to the National General Assembly 2022 - Restore Financial Assistance Grants



AUSTRALIAN
LOCAL GOVERNMENT
ASSOCIATION

PARTNERS IN PROGRESS



2022
NATIONAL
GENERAL
ASSEMBLY
19 - 22 JUNE 2022

CALL FOR MOTIONS
DISCUSSION PAPER



NGA22.COM.AU

SUBMITTING MOTIONS

This discussion paper is a call for councils to submit motions for debate at the 2022 National General Assembly (NGA) to be held in Canberra 19 – 22 June 2022.

It has been prepared to assist you and your council in developing your motions. You are encouraged to read all the sections of the paper but are not expected to respond to every issue or question. Your council's motion/s can address one or more of the issues identified in the discussion paper.

Motions should be lodged electronically using the online form available on the NGA website at: www.alga.asn.au and received no later than 11:59pm AEST on Friday 25 March 2022.

The theme of the 2022 NGA is – Partners in Progress.

The NGA aims to focus on how partnerships, particularly between the Australian Government and Local Governments, can tackle immediate challenges facing communities as well as confidently facing the future.

In submitting your council's motion/s you are encouraged to focus on how partnership can address national issues at the local level, and new ways the Australia Government could partner to strengthen the local government sector to advance community well-being, local economic development, create jobs, address environmental challenges, climate change and complex social issues such as housing affordability.

The National General Assembly of Local Government (NGA) is an important opportunity for you and your council to influence the national policy agenda and promote new ways of strengthening the local government sector and our communities.

Note: If your council does submit a motion there is an expectation that a council representative will be present at the National General Assembly to move and speak to that motion if required.

We look forward to hearing from you and seeing you at the 2022 NGA.



To submit your motion go to:
alga.asn.au/



KEY DATES

CRITERIA FOR MOTIONS

To be eligible for inclusion in the NGA Business Papers, and subsequent debate on the floor of the NGA, motions must meet the following criteria:

1. be relevant to the work of local government nationally
2. not be focussed on a specific location or region – unless the project has national implications. You will be asked to justify why your motion has strategic importance and should be discussed at a national conference
3. be consistent with the themes of the NGA
4. complement or build on the policy objectives of your state and territory local government association
5. be submitted by a council which is a financial member of their state or territory local government association
6. propose a clear action and outcome i.e. call on the Australian Government to do something; and
7. not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members, or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Motions should generally be in a form that seeks the NGA's support for a particular action or policy change at the Federal level which will assist local governments to meet local community needs.

Motions should commence as follows - *This National General Assembly calls on the Australian Government to*

Example

This National General Assembly calls on the Australian Government to restore Local Government Financial Assistance Grants to a level equal to at least 1% of Commonwealth taxation revenue.

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OTHER THINGS TO CONSIDER

Please note that it is important to complete the background section on the form. Submitters of motions should not assume that NGA delegates will have background knowledge of the issue. The background section helps all delegates, including those with no previous knowledge of the issue, in their consideration of the motion. Please note that motions should not be prescriptive in directing how the matter should be pursued.

Try to keep motions practical, focussed and relatively simple. Complex motions with multiple dot point can be difficult to implement and to advance.

All motions submitted will be reviewed by the ALGA Board's NGA Sub-Committee, in consultation with state and territory local government associations, to determine their eligibility for inclusion in the NGA Business Papers. When reviewing motions, the Sub-Committee considers the criteria, clarity of the motion and the importance and relevance of the issue to local government. If there are any questions about the substance or intent of a motion, ALGA will raise these with the nominated contact officer. With the agreement of the submitting council, these motions may be edited before inclusion in the NGA Business Papers.

To ensure an efficient and effective debate where there are numerous motions on a similar issue, the ALGA Board NGA Subcommittee will group the motions together under an overarching strategic motion. The strategic motions have either been drafted by ALGA or are based on a motion submitted by a council which best summarises the subject matter. Debate will focus on the strategic motions. Associated sub-motions will be debated by exception only or in accordance with the debating rules.

Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state or territory local government association and will not be included in the NGA Business Papers.

Motions should be lodged electronically using the online form available on the NGA website at: www.alga.asn.au. All motions require, among other things, a contact officer, a clear national objective, a summary of the key arguments in support of the motion, and endorsement of your council. Motions should be received no later than 11:59pm AEST on Friday 25 March 2022.

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Introduction

As Australia emerges from the crisis management phase of the COVID-19 global pandemic, attention now turns to rebuilding and to the future.

By the time of the NGA in June 2022, the next federal government and 47th Parliament of Australia, will almost certainly have been elected.

Prior to the election the major political parties will have campaigned on priorities and made numerous policy and programs commitments that will help shape our nation's future.

Invariably, in government, these policies and programs will need to be refined, developed and implemented. Almost certainly they will need to be adapted to meet changing circumstances, emerging issues and local and regional needs.

We know from previous elections that governments will not be able to achieve their policy agenda alone. They need reliable partners committed to playing their part in taking the nation forward, working together on mutual goals and advancing national prosperity for all.

During the election campaign, ALGA will be working extensively with state and territory local government association members, and many of you, to advance the national priorities highlighted in the Federal Election manifesto 'Don't' Leave Local Communities Behind'.

These priorities were significantly influenced by many of the resolutions of past NGAs.

Whether the Coalition Government is returned or a new Government formed, the 2022 NGA provides the first major opportunity to engage with relevant portfolio Ministers and key members of the new Government.

Most importantly, it provides you - the elected representatives of Australia's local councils and communities - with the opportunity to reaffirm our national priorities and to place new ideas on the national policy agenda.

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The Immediate Recovery Challenges

Government at all levels have collaborated to avert the worst possible health and economic outcomes of the COVID-19 pandemic across Australia.

By November 2021 most states had reached or made significant progress in reaching the 80% or more vaccination threshold.

Every community was affected, some more than others, and local government has been at the forefront of developing local solutions to local challenges.

Given the economic and social impacts of the COVID pandemic on communities over the past 2 years, are there issues that need to be addressed by a new partnership between the Commonwealth Government and local governments?

Given the impacts of the COVID pandemic on your council and other councils around the country, are their issues that a partnership between the Commonwealth Government and local government should address?

Jobs

In September 2021 the national, seasonally adjusted unemployment rate, was 5.2% (ABS). The underemployment rate was 9.5% with monthly hours worked decreasing by 1 million hours. Roy Morgan's survey work suggests Australian unemployment (unadjusted) was 9.2% in October with underemployment at 8.6%.

National statistics however mask variations at the state, regional and local level. State and Territory unemployment ranged from 3.9% in Western Australia and the Northern Territory, 5.1% in Queensland and Tasmania, 5.3% in South Australia, NSW 5.4%, Victoria 5.6% and the Australian Capital Territory 6.6%. Similarly, regional and local community unemployment vary from the national average reflecting local circumstances and the different impact of the COVID-19 pandemic, lockdowns and their flow-on effects have on the local economy. Youth unemployment and Aboriginal and Torres Strait Islander unemployment is also consistently higher.

As an employer of staff and of contractors, as well as a facilitator of local economic development, local government can play a key role in addressing unemployment and underemployment.

In keeping with the ALGA Federal election manifesto, 'Don't' Leave Local Communities Behind' local solutions are required for local circumstances.

What new partnership program could the Australian Government develop to take advantage of local government's knowledge of the local economy, geographic spread across the country and its ability to create jobs?

As an employer, what are the pre-requisites for councils to create more good quality, secure local jobs that build community capacity and address local workforce skills shortages?

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Building Back Better Businesses

The economic shock of the past 2 years has caused unprecedented disruption to local businesses and communities. While many businesses have adapted to difficult circumstances, some have not survived. The current vacant shops fronts and offices of the streetscapes in our cities and towns is evidence of the challenges that our local businesses, local industry and communities have faced.

The capacity of the private sector, and small business in particular, to bounce back is untested.

What new partnership programs could the Australian Government introduce to take advantage of local government's role in economic development, including to support local businesses?

Opening Australia's Borders

As previously mentioned, by November 2021 most states had reached or made significant progress in reaching the 80% or more vaccination threshold. At this point, under the National Plan to Transition Australian National COVID-19 Response, governments were committed to introducing new measures such as opening international borders, minimising cases in the community without ongoing restrictions or lockdowns, Covid vaccination boosters encouraged and provided as necessary, and allowing uncapped inbound arrivals for all vaccinated persons, without quarantine.

As Australia opens-up its international borders economic recovery is expected to accelerate. The return of expats, international students, overseas migration and international tourism will increase population, supply of labour and demand for goods and services including for accommodation.

In the first instance, economic activity can be expected to return to pre-Covid levels. Over time, with appropriate support, it will grow.

The closure of borders and particularly international borders affected many parts of the tourism industry and the economies of many local communities. While domestic visitors helped fill a gap, recovery of many parts of the industry and the economy of communities that depend heavily on tourism will depend on the return of international travel.

To do this Australia must position itself to compete in international markets. This comes through offering high quality destinations, services and experiences that highlight the quality and value available in Australia. In addition to delivering a better visitor experience, this should also increase productivity, efficiency and innovation.

In the short term, what new partnership programs could the Australian Government introduce to assist local government meet the return of international students and stronger migration now and into the future?

What new programs could the Australian Government develop to partner with local government to facilitate tourism and the traveller economy?

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Workforce Shortages and Re-engineering Work

In November 2021 business representatives report significant labour shortages particularly in the agriculture and hospitality sectors. The lack of backpackers, overseas students and migrant workers, combined with people not wanting to return to the workforce, are just some of the reasons attributed to these shortages.

While opening borders may increase the supply of labour, some argue that there is a more fundamental change in Australia's workforce and workplaces.

Although not reported in Australia yet, in the United States the post Covid workforce has been associated with what some have called the 'Great Resignation' as employees have adjusted their expectations, work life balance and priorities and simply not returned to their old jobs.

Many workers have been required to work from home for extended periods during the pandemic, including working remotely and now look for greater flexibility in their work. Technology and automation are transforming work and the workplace.

Many are prepared to change jobs to maximise this flexibility and the benefits derived from it. Traditionally this has led to wage pressure but coupled with demand for greater workplace flexibility employers need to be innovative to attract and retain employees. As an employer, councils are not immune and will also need to develop these strategies.

What new programs could the Australian Government develop to partner with local government to help support an influx of skilled migrants?

What new programs could the Australian Government develop to partner with local government to help councils attract and retain appropriately trained workers and employees?

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Climate change

The United Nations Conference (COP) of Parties 26 held in Glasgow 2021 focused global attention on climate change and global and national efforts to achieve net zero emissions by 2050 and limit global warming to 1.5 degrees.

For decades local governments have played an important leadership role in addressing climate change. Councils have supported the adoption of a wide range of community-based programs and initiatives to lower the carbon footprint of local communities. As a sector, local government has led the debate for lowering carbon emissions, sourcing renewable energy, responded creatively to reduce greenhouse gas emissions from landfills, facilitated the construction of green buildings and water sensitive design of cities and towns.

Pragmatically, local government has been at the forefront to address the impacts of climate change and adaptation to climate change. These impacts include an increased number of days with high temperatures, less rainfall and more droughts in southern Australia, less snow, more intense rainfall and fire weather, stronger cyclones, and sea level rise. These changes will increase stress on Australia's infrastructure and physical assets and natural ecosystems that are already threatened, and significantly affect agriculture, forestry, fisheries, transport, health, tourism, finance and disaster risk management.

*How do we work together to ensure that there is local adaptation to climate change and climate extremes?
What partnerships are available to achieve climate neutrality?*

Natural Disasters

With the high-risk weather season commencing, many councils will be engaging with their communities about disaster preparedness, resilience and recovery. Not only have we experienced one of Australia's worst bushfire seasons in 2019-20, but some councils also had to deal with multiple disaster events within a 12 month period. Some councils have had to deal with bushfires, followed by storms, flooding, hailstorms, more flooding and COVID-19. These multiple disasters have had a devastating effect on many councils' financial sustainability and their ability to fund mitigation measures for the upcoming high risk weather season. Smaller rural and regional councils are further financially challenged and require help with preparedness and mitigation, as they currently have zero capacity to fund major mitigation projects.

The Royal Commission into National Natural Disaster Arrangements recognised that councils need help. It concluded that without assistance many local governments cannot undertake the roles and responsibilities allocated to them by their State/Territory Governments.

What new programs could the Australian Government develop to partner with local government to help to address natural disasters to assist in recovery and build resilience?



Environment

Local government plays a critical role in environmental management including environment protection.

“Australia’s Strategy for Nature 2019 – 2030” recognises that we all have a role in securing nature as the foundation of our existence. It is an overarching framework for all national, state and territory and local strategies, legislation, policies and actions that target nature. It has 3 goals:

1. Connecting all Australians with nature:
2. Care for nature in all its diversity, and
3. Share and Build knowledge.

To achieve these goals there are a variety of options for joint action to reduce threats and their impacts include ensuring the design and management of the protected area network considers and accommodates future threat scenarios and establishes robust mechanisms to respond effectively to new and emerging threats. The strategy suggests there are opportunities to ‘... improve planning, regulation, environmental impact assessment and approvals processes. In addition, threat abatement activities could include targeted pest management, ecosystem restoration (integrated fire management, revegetation), pollution control, greenhouse gas emissions management and climate change adaptation’.

How could the Australian Government partner with local government to help support the implementation of the Australian Strategy for Nature 2019 – 2030 and take advantage of local knowledge?

What new programs could the Australian Government develop to partner with local government to help to reduce threats and risks to nature and build resilience?

The Circular Economy

The 2019 National Waste Policy Action Plan applies principles of a circular economy to waste management to support better and repeated use of our resources. The circular economy principles for waste are:

1. Avoid waste
2. Improve resource recovery
3. Increase use of recycled material and build demand and markets for recycled products
4. Better manage material flows to benefit human health, the environment and the economy
5. Improve information to support innovation, guide investment and enable informed consumer decisions.

Councils play a major role in the management of household and domestic waste. Therefore, local government has a critical role to play in further developing the circular economy.

How could the Australian Government partner with local government to advance the circular economy?

What new programs could the Australian Government partner with local government to progress these objectives?



Affordable Housing

The shortage and costs of rental properties and affordable home ownership is causing significant social and economic impacts in cities and towns across Australia, including rural and regional communities. This is due to a range of factors such as changes in recent migration patterns, cheap finance and labour and material shortages in the construction sector.

The impacts on local governments and communities includes housing stress for individuals and families, difficulty in attracting and housing key workers and an increase in homelessness.

The House of Representatives Standing Committee on Tax and Revenue 2021 is leading an inquiry into the contribution of tax and regulation on housing affordability and supply in Australia. Whilst the provision of affordable housing is not a local government responsibility, local governments often facilitate affordable housing within their communities, operating within state/territory planning, financial and other legislation requirements. The housing challenge is different in each community and the council response is dependent on its financial resources and priorities.

How could the Australian Government partner with local government address housing affordability?

What new programs could the Australian Government partner with local government to progress this objective?

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Conclusion

Thank you for taking the time to read this discussion paper and support for the 2022 National General Assembly of Local Government.

A reminder:

- Motions should be lodged electronically using the online form available on the NGA website at: www.alga.asn.au and received no later than 11:59pm AEST on Friday 25 March 2022.
- It is important to complete the background section on the form.
- Motions should not be prescriptive in directing how the matter should be pursued.
- Motions should be practical, focussed and relatively simple.
- Motions must meet the criteria published at the front of this paper.
- When your council submits a motion there is an expectation that a council representative will be present at the National General Assembly to move and speak to that motion if required.

We look forward to hearing from you and seeing you at the 2022 NGA.

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Improve health outcomes in rural, regional and remote Australia

MOTION:

This National General Assembly calls on the Australian Government to partner with State and Territory Governments to drive improvements in health access and outcomes in rural, regional and remote Australia, including exploring innovative models of care and more flexible allocation of funding.

National Objective (Maximum 200 words)

The World Health Organization describes a good health system as one that 'delivers quality services to all people, when and where they need them'.

As it stands Australia's health system – while far better than that of most other countries – cannot be said to deliver 'quality services to all people, when and where they need them'. There are clear differences in access to quality health services and health outcomes between those living in regional and remote areas of Australia.

This objective of this motion is for Australians to benefit from a truly good health system.

Summary of key arguments in support of the motion (Maximum 500 words)

- Nearly three in every 10 Australians (28%, or around 7 million people) live in rural and remote areas (all areas outside Australia's major cities), which encompass many diverse locations and communities.
- On average, Australians living in rural and remote areas have shorter lives, higher levels of disease and injury and poorer access to and use of health services, compared with people living in metropolitan areas.
- Data shows that people living in rural and remote areas have higher rates of hospitalisations, deaths, injury and also have poorer access to, and use of, primary health care services, than people living in Major cities.
- The rate of disease burden in remote and very remote areas is around 1.4 times higher than that for major cities, while non-fatal burden rates are 1.2 times as high. They are also more likely to be impacted by selected chronic conditions such as stroke and diabetes.
- People living in rural and remote areas are more likely to die at a younger age than their counterparts in major cities, with age of death decreasing with distance from major cities. In 2018, the median age of death for males (M) and females (F) was:
 - Major cities – 79 (M), 85 (F)
 - Inner regional – 78 (M), 84 (F)
 - Outer regional – 76 (M), 83 (F)
 - Remote – 73 (M), 80 (F)
 - Very remote – 68 (M), 70 (F).
- Poorer health outcomes in rural and remote areas may be due a range of factors including lifestyle differences, level of disadvantage related to education and employment opportunities, and access to health services.

- Despite increased health service requirements, Australians living in rural and remote areas experience health workforce shortages.
- Mirror, Mirror 2021: Reflecting Poorly compares Health care in the Unites States with ten other high income countries, including Australia. The 2021 report rates the Australian health care system as third overall but rates Australia as eighth in access to care, which includes measures of health care's affordability and timeliness.
- The Parliamentary Inquiry into Health Outcomes and Access to Health and Hospital Services in Rural, Regional and remote NSW, which was established in September 2020 following allegations of widespread dysfunction and under-resourcing in the State's rural and regional hospitals, is not due to release its report until 29 April 2022 but the 719 submissions to the inquiry and public hearings have alleged widespread inadequacies in care and a lack of resources, including reports of hospitals running out of crucial supplies such as Panadol, morphine antibiotics and blood products while at one hospital kitchen staff have provided care to patients who have suffered strokes and newborn babies due to lack of nursing staff.
- While the parliamentary inquiry looks into rural, regional and remote areas in one state, the anecdotal evidence and indicates that the issues of inadequate staffing, range of services and levels of care is universal in regional and remote areas across Australia.

Restore Financial Assistance Grants (FAGS)

MOTION:

This National General Assembly calls on the Australian Government to:

- restore Local Government Financial Assistance Grants to a level equal to at least 1% of Commonwealth taxation revenue
- remove the requirement to allocate 30% of the General Purpose Component of Financial Assistance Grants on the basis of population increases/decreases.

National Objective (Maximum 200 words)

The objective is to increase the level of financial support provided by the Federal Government through Local Government Financial Assistance Grants and to ensure the funds are allocated in such a way as to improve the sustainability of Councils with less revenue raising ability.

Summary of key arguments in support of the motion (Maximum 500 words)

- The roles and responsibilities of local governments have increased over time as a result of a number of factors including cost shifting from other levels of government and increasing community demand particularly in rural, regional and remote areas where there is more likely to be a need to provide essential services – such as aged care or childcare – which would otherwise not be available.
- In the past 25 years local government expenditure has quadrupled in nominal terms (6.7% per annum compound growth rate). Over the period from 1994/95 to 2018/19, total local government expenditure increased from \$8.2 billion to \$38.8 billion¹.
- While local government expenditure has grown significantly over time, its revenue base has not. Many Councils are finding it difficult to remain financially sustainable and their reliance on grants as a proportion of their income is high. For some rural and remote councils where own-source revenue-raising capacity is limited, grants can account for more than 50% of council revenue.
- Local Government Financial Assistance Grants, which are broken into two components – the General Purpose Component (GPC) and the Local Roads Component (LRC) – are paid by the Federal Government to local councils to help them deliver services to their communities. In contrast to many grants, Federal Assistance Grants are untied; Councils are free to use the funds in the ways they believe will best serve their communities.
- The level of Financial Assistance Grants as a proportion of Commonwealth tax revenue has been steadily declining since the year 2000. Financial Assistance Grants have declined by around 43% in relative terms, and now amount to about 0.55% of Commonwealth tax revenue.
- The impact of the relative reduction in Financial Assistance Grants is greater for some Councils than others because of the way in which the funds are allocated.
- Funds are allocated on the basis of National Principles under the *Local Government (Financial Assistance) Act 1995*. Under the National Principles, a fixed 30% of the General Purpose Component of the grant must be allocated based on population increases/decreases. This favours Council's with a higher population, which generally have greater capacity to raise their own revenue. It further disadvantages rural and remote Councils with small and declining populations,

limited capacity to raise revenue, financial responsibility for sizeable networks of local roads and other infrastructure, diminishing financial resources and relative isolation.

- Many local governments across Australia have insufficient revenue-raising capacity to maintain or upgrade their significant infrastructure holdings or provide the level of services that their communities desire. Councils are faced with the prospect of having to retire community infrastructure that they cannot afford to renew – infrastructure that is, in many cases, vital to community wellbeing and cohesion.

¹ Figures reflect the latest information we've been able to locate but will be double-checked and updated as necessary prior to submission to ALGA.

ITEM 8.8 MINUTES OF THE AUDIT, RISK AND IMPROVEMENT COMMITTEE MEETING - 11 NOVEMBER 2021

RECORD NUMBER	22/19
RELATED FILE NUMBER	EF21/429/02
AUTHOR/S	Executive Manager IPR, Governance and Engagement
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to submit the Minutes of the Audit, Risk and Improvement Committee (ARIC) meeting held on Thursday 11 November 2021.

RECOMMENDATION

THAT Council endorses the Minutes of the Audit, Risk and Improvement Committee meeting held on 11 November 2021, notes the Fraud Control Framework Review Report and adopts the Action Plan Priority List contained within.

REPORT

(a) Background

Leeton Shire Council's ARIC met on Thursday 11 November 2021. The Minutes of the meeting (**Attachment 1**) are now presented for Council's information.

The ARIC is charged with providing independent assurance and assistance to Council on risk management, control, governance and external accountability responsibilities, as well as for the purposes of quality assurance and quality improvement.

(b) Discussion

At the meeting of 11 November 2021, the ARIC reviewed the Annual Financial Statements for the year ending 30 June 2021 and heard Brad Bohun's videoconference presentation of the Auditor's Report.

The ARIC also reviewed the Fraud Control Framework Review Report (**Attachment 2**) and recommended that Council adopt the Action Plan Priority List contained within the report (pages 25–27), noting that it did not expect that Council would conduct external six-monthly fraud awareness campaigns.

Other matters on the Agenda for the ARIC Meeting of 11 November 2021 included a review of Council's Fraud and Corruption Prevention Policy, and an update of the implementation of the Procurement Process Improvement Plan and Council's Cyber Security Framework.

ARIC now seeks Council's endorsement of its resolutions as recorded within the Minutes of the 11 November 2021 meeting.

(c) Options

1. THAT Council endorses the Minutes of the Audit, Risk and Improvement Committee meeting held on 11 November 2021, notes the Fraud Control Framework Review Report and adopts the Action Plan Priority List contained within – **this is the preferred option**
2. THAT Council chooses not to endorse the Minutes of the ARIC Committee meeting or the Fraud Control Framework Review Report

IMPLICATIONS TO BE ADDRESSED

(a) Financial

All audits and improvement plan actions are being undertaken within existing operational budgets. The proposed audits for 2021/22 have been allowed for in the draft Budget 2021/22.

(b) Policy

There are no policy implications arising from this report.

(c) Legislative/Statutory

The Audit, Risk and Improvement Committee is established under the *Local Government Act 1993*.

The ARIC is bound by Council's Code of Conduct and Code of Meeting Practice.

(d) Risk

Leeton Shire Council's exposure to risk would increase if it failed to undertake internal audits.

CONSULTATION

(a) External

The ARIC membership includes three independent external members, including the Chair.

(b) Internal

ARIC Councillor members
Group Manager Corporate
Manager Finance
Manager WHS, QA and Risk

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area THEME 6 - "STRONG LEADERSHIP" within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot – 20c is to: Strive to deliver the aspirations of the community through sound governance practice – Continue to hold Audit, Risk and Improvement Committee meetings.

ATTACHMENTS

- 1 [↓](#) ARIC Meeting Minutes - 11 November 2021
- 2 [↓](#) Fraud Control Framework Review Report - Internal Audit



**MINUTES OF THE
AUDIT, RISK AND IMPROVEMENT COMMITTEE
LEETON SHIRE COUNCIL
THURSDAY 11 NOVEMBER 2021
COMMENCING AT 6.30PM
COUNCIL CHAMBERS**

LEETON SHIRE COUNCIL

Audit, Risk and Improvement Committee - Thursday 11 November 2021

1. **PRESENT (Voting Members):** Graham Bradley (Chair), Cr Tracey Morris, Mr Bill Robertson, Mr Emerson Doig, Cr Tony Reneker

(Non-Voting Attendees): Jackie Kruger (General Manager), Kerrie-Anne Hare (Executive Manager IPR, Governance and Engagement), Mandy Rogers (Group Manager Corporate), Gerard Simms (Manager ITC) and, by videoconference, Lawrence Amato (Manager Finance)

Others: By video conference: Brad Bohun, Audit and Assurance Senior Partner at Crowe Australasia.

2. **APOLOGIES**

Apologies for lateness: Mr Bill Robertson and Cr Tracey Morris

3. **CONFIRMATION OF THE MINUTES**

Resolved

THAT the Minutes of the Audit, Risk and Improvement Committee held on Thursday 9 September 2021, as circulated, be taken as read and CONFIRMED.

(Moved Mr Doig, seconded Cr Reneker)

Cr Tracey Morris entered the meeting, the time being 6.35pm.

Mr Bill Robertson entered the meeting, the time being 6.38pm.

ADDITIONAL/LATE ITEM

Resolved

THAT the following item, namely:

5.3. PROCUREMENT PROCESS IMPROVEMENT PLAN UPDATE

is accepted as a late item onto this Agenda for discussion.

(Moved Mr Bradley, seconded Cr Morris)

4. **DECLARATION OF INTEREST**

Mr Bill Robertson declared an insignificant non-pecuniary conflict of Interest in Item 5.4 The Cyber Security Framework at Leeton Shire Council because the Manager ITC, who manages the implementation of the Cyber Security Framework, is Mr Robertson's son-in-law.

LEETON SHIRE COUNCIL
Audit, Risk and Improvement Committee - Thursday 11 November 2021

5. OFFICER'S REPORT

Item 5.1 MATTERS ARISING FROM PREVIOUS MINUTES

Resolved

THAT the updates regarding matters arising from previous meetings contained within this Agenda be received and noted.

(Moved Mr Doig, seconded Mr Robertson)

Move into Committee of the Whole

Resolved

THAT the Audit, Risk and Improvement Committee move into Committee of the Whole to hear Brad Bohun of Crowe Australasia present the Auditor's Report via videoconference.

(Moved Mr Doig, seconded Cr Reneker)

Move out of Committee of the Whole

Resolved

That the Audit, Risk and Improvement Committee move out of Committee of the Whole.

(Moved Cr Reneker, seconded Mr Doig)

Item 5.2 REVIEW OF LEETON SHIRE COUNCIL'S ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDING 30 JUNE 2021

Resolved

THAT the Audit, Risk and Improvement Committee notes the Annual Financial Statements for the 2020/21 Financial Year as presented.

(Moved Mr Bradley, seconded Cr Morris)

Item 5.3 PROCUREMENT PROCESS IMPROVEMENT PLAN UPDATE

Resolved

THAT the Audit, Risk and Improvement Committee notes for information the status of actions arising from the Procurement Process Improvement Plan.

(Moved Mr Doig, seconded Cr Robertson)

LEETON SHIRE COUNCIL
Audit, Risk and Improvement Committee - Thursday 11 November 2021

Item 5.4 THE CYBER SECURITY FRAMEWORK AT LEETON SHIRE COUNCIL

Resolved

That the Audit, Risk and Improvement Committee notes for information the tabled Cyber Security Framework.

(Moved Mr Robertson, seconded Cr Reneker)

Item 5.5 FRAUD CONTROL FRAMEWORK REVIEW REPORT

Resolved

THAT the Audit, Risk and Improvement Committee notes for information the Fraud Control Framework Review Report and recommends to Council that the Action Plan Priority List contained within it be adopted, noting that there is no expectation that Council conduct six-monthly fraud awareness campaigns.

(Moved Mr Doig, seconded Cr Morris)

Item 5.6 REVIEW OF FRAUD AND CORRUPTION PREVENTION POLICY

Resolved

THAT Leeton Shire Council's Fraud and Corruption Prevention Policy be revised to align with the sample policy included in the Fraud Control Improvement Kit and the newly published standard on fraud and corruption control AS 8001:2021.

(Moved Mr Bradley, seconded Cr Morris)

The meeting closed at 9.35pm.

..... signed by
the Chairman of the meeting held on
at which meeting the
signature hereon was subscribed.



FRAUD CONTROL FRAMEWORK REVIEW
LEETON SHIRE COUNCIL
30 JUNE 2021

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EXECUTIVE SUMMARY

Engagement

Marsh Advisory was engaged by Leeton Shire Council (LSC) to undertake a Fraud Control Framework Review of its existing framework for managing fraud and corruptions, based on the Audit Office of New South Wales 2015 Fraud Control Improvement Kit (the Kit). The Kit aligns with the Fraud and Corruption Control Standard AS8001-2008, with particular focus on:

- The ten attributes of an effective fraud control system;
- Assessing how LSC manage the risk of fraud; and
- Areas where fraud control can improve.

The findings and recommendations from this Report will inform the scope of works for further enhancement and improvements to the framework.

The Project

In the undertaking of this project, Marsh Advisory implemented the following information gathering activities:

Document Review -

- The majority of the documentation was requested from and provided by Council.
- The documentation review highlights key information regarding the existing fraud control framework, decision-making processes, compliance activities, and specific fraud identification, assessment and control practices within LSC.
- Gap analysis between LSC current Fraud Control Framework ten attributes and the New South Wales Auditor- General's (AO) Report to Parliament – "*Fraud Controls in Local Councils, 22 June 2018*".
- The list of documentation provided and considered as part of this project can be found at Appendix 2.

Fraud risk assessment workshop -

- Marsh Advisory Consultants undertook five workshops across key business units. The following high fraud risk areas represented are listed below as per AO of NSW's '*Fraud Control Improvement Kit 2015*' and ICAC's "*Corruption and Integrity in the NSW Public Sector :an assessment of current trends and events, December 2018*":
 - Procurement
 - Finance
 - Human Resources
 - Information Technology Management
 - Asset Management, Business Development & Applications

- The workshops were conducted between the 22nd, 23rd and 29th of June 2021. Please refer to pages 18 - 19 for further details of the workshop.
- Key fraud risk events were identified during the workshops with the key subject matter experts from each function areas and also risk events reference from the AO of NSW's 'Fraud Control Improvement Kit 2015' and ICAC's "Corruption and Integrity in the NSW Public Sector :an assessment of current trends and events, December 2018".

Fraud health check survey -

- The health check consists of 26 short and simple questions and was sent out in October 2020. The questions used derive from the Audit Office's updated 'ten attributes of fraud control checklist'.
- The objective of the health check is to identify specific work areas where implementation of some attributes of Council's fraud control framework may need improving or updating or attributes of the fraud control framework that may need attention across entire Council.

Summary of Findings

Areas of good practice

We noted the following areas of good practice:

- General and senior managements' commitment to fraud prevention and enhancement of fraud control framework;
- Proactive responsibilities, risk ownership and timeframes for action were noted during the fraud risk assessment workshops.

We have identified 26 key fraud risk events from the AO of NSW's "Fraud Control Improvement Kit 2015" and report from ICAC's "Corruption and Integrity in the NSW Public Sector :an assessment of current trends and events, December 2018" for consideration by Council. These fraud risks have been assessed and rated using the LSC risk matrix (likelihood and consequence tables) and as a result **one high risk, fourteen moderate risks, eleven low risks** were identified.

Risk Rating	Extreme	High	Moderate	Low	Total
Number of Risks	0	1	14	11	26

The following are some of the key observations regarding the documentation review and the workshops conducted:

- A Fraud Control Plan should be developed;
- The need to setup a Fraud Risk Event (loss/near misses) register is highly recommended.
- We encourage every employee in Council should sign both a code of conduct and a conflict of interest declaration as evidence of their commitment to ethical behaviour annually.

- More frequent community-based fraud awareness campaigns are recommended.

Action plan

A total of 23 detailed risk treatment plans for top-10 fraud risks were provided under each fraud risk analysis during the workshops and the Document review. The action plan was assessed using LSC's risk Matrix that is outside council's risk appetite level and given a priority rating as follows:

Priority Rating	Document Review Recommendations	Risk assessment Actions Plan	Total
EXTREME	0	0	0
HIGH	0	2	2
MODERATE	0	16	16
LOW	5	0	5
TOTAL	5	18	23

The ratings were given taking into consideration the potential exposure to risks under the current situation and current level of preparedness should a significant event impact on LSC. It is intended to highlight the urgency for action in the most crucial areas of vulnerability in the current landscape.

The recommendations are outlined against each element in table 1 - Document Review Results and Recommendations.

A prioritised list of the top-10 fraud risks recommended actions can be found at Appendix 3 for your consideration.

Acknowledgement

We would like to take this opportunity to thank LSC Council staff, for their co-operation and assistance provided during the project period.

FRAUD CONTROL FRAMEWORK REVIEW

All organisations are subject to fraud risks. Large frauds have led to the downfall of entire organisations, incarceration of key individuals, significant legal costs and reputational damage. Publicised fraudulent behaviours by key executives have negatively impacted the reputation, brand and image of many organisations around the globe.

Reactions to recent Operation Ricco in the former City of Botany Bay Council show the financial and reputational damage that major fraud can cause. It has had led the public and stakeholders to expect organisations to take a 'no fraud tolerance' attitude. Good fraud control practices are critical for Councils and the community.

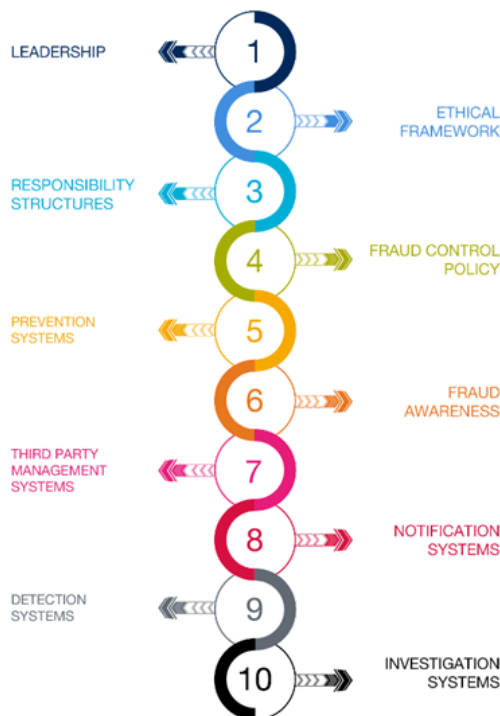
In undertaking the fraud control framework review, two methods were employed that aimed to elicit information that would help to draw an overall picture of LSC's current fraud control obligations and capability. These methods included a Document Review and Fraud Risk Assessment, all of which are essential to an effective response to fraud.

The following section outlines the areas considered under each method and the standards that underpin the basis of our process. The tables further outline our observations, findings and recommendations for improvement in terms of documentation and building knowledge, and confidence in key personnel.

PART 1 - DOCUMENT REVIEW

The documentation review process provided key information regarding existing framework, its elements and evidence of implementation. A list of all the relevant forms of documentation associated with fraud and corruptions was provided to LSC. The documentation provided has helped to establish LSC's current state of preparedness to fraud prevention, detection and response.

The elements considered in the review of LSC's documentation are included in the diagram below:



Source: The Audit Office of New South Wales (Audit Office) issued a Fraud Control Improvement Kit, titled 'Managing your Fraud Control Obligations', February 2015.

These elements are consistent with the Standards Australia Fraud and Corruption Control Standard AS8001-2008.

A list of the types of documents (Appendix 2) sought was provided to LSC, who made available the appropriate documents at the commencement of the project.

Document Review Findings

Table 1 (on the next page) details the ten attributes explored in the Fraud Control Framework Kit. This was assessed against Council's fraud framework and documentation, noting any relevant observations and recommendations for improvement.

Table 1 – Fraud Control Practice by attribute - Results and Recommendations

Fraud Control Practice by attribute – Analysis compared with NSW Auditor-General’s (AO) Report to Parliament – ‘Fraud Controls in local councils’, 22 June 2018

<p>Attribute 1 – Leadership</p> <p><i>Senior management in Councils is committed to effective fraud control</i></p>	<p>Leadership that models ethical behaviour and communicates expectations regarding conduct is fundamental to fraud control. The Kit identifies two common elements of leadership namely:</p> <ul style="list-style-type: none"> • GM and senior management commitment to fraud control • Clearly defined GM and senior management accountability and responsibility 	
<p>AO results</p>	<p>LSC FCFR Observations</p>	<p>Gap Recommendation</p>
<p>We found that 60 councils conduct regular staff surveys of their organisational culture. These measure staff views on issues such as:</p> <ul style="list-style-type: none"> • how effectively council promotes ethical behaviour • the commitment of council's leadership team to ethical conduct • how safe staff feel reporting unethical conduct to their direct supervisor • council's commitment to act in response to reports of unethical conduct 	<p>a. There is evidence from the Executive Leadership Team meeting minutes and ARIC meeting minutes that sets a clear tone from the top concerning fraud and corruption.</p> <p>b. From the fraud risk assessment workshop participation, we noted that all risk and control owners understand their controls and are pro-actively monitoring them under the current control environment.</p> <p>c. Fraud & Corruption Prevention Policy was reviewed, updated and approved in October 2019.</p>	<p>Council had enforced every employee on fraud awareness and their accountability for prevention and detection of fraud which indicated “The need for a ‘whole of business’ approach to controlling fraud and corruption” as per the AS8001-2008 Standard.</p> <p>Nonetheless, we recommend that all line managers should have KPI on fraud controls accountability in their job descriptions and documented formally in the yearly staff performance evaluation process.</p>

<p>Attribute 2 – Ethical Framework</p> <p><i>The Model Code provides the ethical framework for councils</i></p>	<p>An organisation’s fraud control framework is part of a much bigger ethical framework that guides the values of the organisation and provides standards for behaviour and decision-making. The ethical framework sets the organisational culture that is fundamental to the success of a fraud control framework.</p>	
<p>AO results</p> <p>All surveyed councils have measures that meet the requirements of the Model Code and most would also meet the requirements of the consultation draft Model Code released by the OLG in December 2017.</p> <p>However, the Kit recommends that staff also sign both a code of conduct and a conflict of interest declaration as evidence of their commitment to ethical behaviour. Of the 83 councils that completed our survey:</p> <ul style="list-style-type: none"> • 67 ask staff to sign a code of conduct when they commence employment, however only seven councils make this an annual requirement. • 63 councils have a policy relating to conflict of interest. Only 36 of these ask staff to complete a conflict of interest declaration on commencement of employment and only 29 make this an annual requirement. 	<p>LSC FCFR Observations</p> <ul style="list-style-type: none"> • We noted that the Code of Conduct, Gift & Benefit policy, Internal Reporting Policy and Procedure and Secondary Employment policy are updated and reviewed and readily accessible on Council’s intranet. • Designated staff are asked to complete disclosure of pecuniary interest declaration annually. • A gift and benefit declaration is reviewed and maintained by Governance Coordinator. • Fraud Awareness Training completed in November 2020. • Code of Conduct training is completed annually. 	<p>Gap Recommendation</p> <p>No exceptions noted.</p>

<p>Attribute 3 – Responsibility structure</p> <p><i>Responsibility for fraud control oversight is not always clear</i></p>	<p>A comprehensive responsibility structure is required to implement an organisation’s fraud control framework. Key elements of this structure include:</p> <ul style="list-style-type: none"> • Management and all staff have clearly defined responsibilities for managing fraud; • Integration of fraud management with core business; and • Resources allocated to managing fraud. 	
<p>AO results</p>	<p>LSC FCFR Observations</p>	<p>Gap Recommendation</p>
<p>In 35 surveyed councils, the responsibility for oversight of fraud control is part of one or more senior managers' role descriptions. Rural and regional councils are less likely to include this in senior management role descriptions.</p> <p>Of the 83 councils that completed our survey:</p> <ul style="list-style-type: none"> • 48 councils agreed that they had integrated fraud management with their core business. • 45 agreed that sufficient resources were allocated to the management of their fraud risks. 	<ul style="list-style-type: none"> • We noted all control owners from the business are able to demonstrate their concerns on fraud mitigating controls and managing fraud risk within their core business during fraud risk assessment workshops. • A dedicated Manager IP&R and Governance is in charge of fraud risk in Council. Moreover, most fraud related resources are readily available on Council's intranet. • We noted Fraud Prevention is mentioned in the Audit, Risk & Improvement (ARIC) Committee meeting plan on risk management. In addition, fraud initiative was mentioned in the Council's Annual Report FY19/20. • Fraud Awareness Training completed in November 2020. 	<p>Refer to Attribute 1.</p>

<p>Attribute 4 – Fraud Control policy <i>Most councils have a fraud control policy</i></p>	<p>Organisations need to have policies, systems and procedures in place that minimise the risk of fraud. These should include holistic and integrated risk-based policies appropriate to the organisation. Organisations need to review them regularly to ensure they remain current.</p>	
<p>AO results</p> <p>65 surveyed councils report they have a stand-alone fraud control policy which includes most of the characteristics listed in the Kit such as:</p> <ul style="list-style-type: none"> • a definition of fraud • the organisation's commitment to investigating and prosecuting fraud • employee responsibilities relating to fraud prevention • how they will carry out investigations. <p>18 councils surveyed reported that they did not have a fraud control policy. This is a significant gap in practice for these councils.</p> <p>Only 42 surveyed councils have reviewed their policy in the last two years. Newly amalgamated councils are operating with systems inherited from two or more pre-amalgamated councils. The nine newly amalgamated councils that completed the survey report that they are establishing new stand-alone fraud control policies that will apply to their council.</p>	<p>LSC FCFR Observations</p> <ul style="list-style-type: none"> • We noted Council has an approved Fraud Control Policy in October 2019. Key characteristics include: <ul style="list-style-type: none"> - Scope and purpose - Policy statement - Legislative obligations and supporting - Fraud definitions - Roles and responsibilities - General Principles - Reporting corrupt conduct • Council completed the Fraud Control Health Check in October 2020 to measure staff understanding of the fraud and corruption procedures. The average score for fraud control policy is 2.72 out of 5 (full score) with 14% participation rate. 	<p>Gap Recommendation</p> <p>The main purpose of having the Fraud Control policy is to be responsive to changes in the operating environment and reviewed at least every two years and following significant restructures and /or changes to Council functions. We suggest that, as a minimum, the fraud control policy which addresses the ten attributes of fraud control set out in the Fraud Control Improvement Kit issued by the Audit Office of New South Wales.</p>

<p>Attribute 5 – Prevention Systems</p> <p><i>Few councils have fraud control plans or undertake regular risk assessments</i></p>	<p>Fraud prevention systems are a cost effective way to minimise fraud in an organisation. As with all aspects of the fraud control framework, the prevention strategies used by an organisation should be proportionate to the fraud risks involved. They should include:</p> <ul style="list-style-type: none"> • Proactive and integrated risk assessments • Planning and follow up accountability mechanisms. <p>These should be reviewed after substantial change and at least every two years.</p>	
<p>AO results</p> <p>Of the 83 councils that completed the survey only:</p> <ul style="list-style-type: none"> • 31 have fraud control plans • 15 have conducted a form of fraud risk assessment in the last two years. <p>One of the common weaknesses in prevention systems was that no recent risk assessment had been completed.</p>	<p>LSC FCFR Observations</p> <ul style="list-style-type: none"> • Fraud risk assessment for five key fraud risk areas were completed in June 2021. • There is pre-employment screening for new employees and character reference checks undertaken (and or police check on certain position). • There is IT Cyber Security Framework and Cyber Crime and Security Incident Policy are in place and reviewed annually. • There is no Fraud & Corruption Control Plan in place. 	<p>Gap Recommendation</p> <p>We recommend that</p> <ol style="list-style-type: none"> i) Fraud incidents to be recorded, reviewed and monitored quarterly. ii) A fraud database should be established containing all reports of fraud, action taken and outcome. This database should be regularly reviewed, kept up to date and de-identified data published on Council's website to demonstrate to staff and the public that fraud is taken seriously and dealt with as part of a transparent and accountable process. iii) Fraud control plan - A fraud control plan should be developed that includes fraud key control activities, responsibilities and timeframes for action. Fraud health check and the training and education program should be linked to the plan.
<p>Attribute 6 – Fraud Awareness</p> <p><i>Councils provide only limited training and information on fraud.</i></p>	<p>Staff within an organisation are a prime source of information on suspected frauds. To make best use of this valuable resource, staff need to be aware of what fraud is, common types of fraud they may encounter, their responsibilities and how to report suspected frauds. Importantly, organisational culture must encourage reporting of suspected fraud.</p>	
<p>AO results</p> <p>Many councils do not ensure that their staff have good fraud awareness. Of the 83 councils that completed the survey only:</p> <ul style="list-style-type: none"> • 48 provide fraud awareness training or information to new staff • 28 provide fraud awareness training 	<p>LSC FCFR Observations</p> <ul style="list-style-type: none"> • Fraud Awareness Training completed in November 2020. • Based on the fraud risk assessment workshop participation, we noted that all risk and control owners understand their controls and are pro-actively 	<p>Gap Recommendation</p> <p><u>Minor Improvement:</u> Besides ongoing education and an awareness campaign that Council had implemented to staff, we encourage other awareness raising activities such as:</p> <ul style="list-style-type: none"> - Newsletters - Anti-fraud articles on the intranet - Fraud hot line or fraud online form - Discussion points for team meetings

<p>or information to contracted-in staff</p> <ul style="list-style-type: none"> 29 provide fraud awareness training for existing staff at regular intervals. 	<p>monitoring them under the current control environment.</p>	<p>- Highly visible information displayed for customers at Council area about Council having a strong anti-fraud stance and community's view of Council's integrity.</p>
<p>Attribute 7 – Third Party Management Systems</p> <p><i>Councils have implemented most recommended controls on third party management.</i></p>	<p>Third party management systems include:</p> <ul style="list-style-type: none"> Targeted training and education for key staff Due diligence and clear contractual obligations and accountabilities Effective third party internal controls Third party awareness and reporting Staff disclosure of conflicts of interest and secondary employment. 	
<p>AO results</p>	<p>LSC CFR Observations</p>	<p>Gap Recommendation</p>
<p>Most councils have implemented controls relating to conflicts of interest, duplicate payments, consultants and contractors, and payment on confirmation of services received. More than half have implemented all the third-party management systems recommended in the Kit.</p> <p>However, we identified some gaps in practice. For example, of the 83 councils who completed the survey:</p> <ul style="list-style-type: none"> 26 do not have processes to manage phantom vendor fraud. Phantom vendor fraud occurs when an employee establishes a fictitious vendor and submits false invoices for payment or where an invoice does not exist to support payment 28 do not have processes to manage potential kickback or bribery. Kickback or bribery involves an employee misusing their position to award contracts to firms in return for 	<p>All of the potential fraud risks identified by AO have been discussed and assessed at Council's fraud risk assessment workshops. We have identified 2 (High) and 16 (Moderate) residual risk rating outside LSC's risk appetite level and relevant treatment plans to ensure that it is managed within council's risk appetite.</p> <p>We noted that Council has proper controls in third-party systems such as:</p> <ul style="list-style-type: none"> transparency in selection and supplier management conflicts of interest declaration for procurement exception reports reconciliation reviews and audit trail for supplier master file data changes Due diligence checks and verification and by EFTSURE team on suppliers/contractors for any change of bank details and updates the change in the Supplier/Vendor Master File 	<p>Refer to Appendix 2 for risk treatment plans.</p>

<p>personal gain such as payments of money, employment of family members outside proper recruitment processes, or other gratuities</p> <ul style="list-style-type: none"> • 37 do not have processes to manage potential bid rigging. Bid rigging is collusive price-fixing behaviour by firms to coordinate their bids on procurement or project contracts, including arranging the bidding process to guarantee selection of a vendor • only 36 councils that reported their contracts with third parties clearly set out accountabilities for managing fraud risk. <p>While 63 councils surveyed reported that their code of conduct or ethics applies to staff of consultants and contractors who are engaged in providing services to the council, only 17 per cent said they provided fraud awareness information or training for these people on commencement of the contract.</p>	<ul style="list-style-type: none"> • Benefit and gift register and policy are in place • Tender evaluation panel is asked to complete disclosure of pecuniary interest declaration • Tender assessment criteria is held confidential • Oversight framework for project management office (PMO) to monitor and track the progress of all major projects e.g. budget control reviews, quality management are in place and reviewed 	
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<p>Attribute 8 – Notification Systems <i>Councils usually document notification systems but rarely communicate these to the public</i></p>	<p>Organisations should encourage employees and external parties to report unethical behaviour, including fraud. Employees must understand that they can make reports without fear of reprisal and be confident that they will be taken seriously and acted upon.</p>	
<p>AO results</p> <p>Of the 83 councils that completed the survey only around half undertake awareness activities to ensure that staff and the public know how they can report suspected fraud to council and only:</p> <ul style="list-style-type: none"> • 4 have community awareness campaigns that provide information to the public about how to report conduct that they suspect may be fraudulent • 34 have information on their website to make customers and the public aware of how they can report suspected cases of fraud. 	<p>LSC FCFR Observations</p> <ul style="list-style-type: none"> • Fraud control policy can be found on council's website. • Gifts and benefits register for both staff and councillors are maintained and reviewed by Manager IP&R and Governance. • We found that there is still need for improvement on community awareness campaigns for the wider public. 	<p>Gap Recommendation</p> <p>We suggest that</p> <ol style="list-style-type: none"> Community awareness campaigns for fraud awareness to extend to the public every 6 months and Council is encouraged to share fraud awareness topics through newsletters, all staff emails and the intranet. Refer to attribute 5 (ii).
<p>Attribute 9 – Detection Systems</p> <p><i>While councils report good coverage of detection controls, our financial audits highlight a need for regular review in this area</i></p>	<p>It is important for an organisation to take ownership of its fraud risk and implement effective detection systems to mitigate these risks. An organisation should have:</p> <ul style="list-style-type: none"> • Robust internal controls • Monitoring and review processes • Risk-based internal audit programs. 	
<p>AO results</p> <p>Survey shows that most councils reported they have most of the detection controls recommended in the Kit. However, staff rotation in high-risk areas is a practice in only 12 councils.</p>	<p>LSC FCFR Observations</p> <p>We noted during the fraud risk assessment that LSC has implemented the following fraud detection controls such as:</p> <ul style="list-style-type: none"> • Segregation of duties in high-risk areas • Reconciliations • Delegations manual 	<p>Gap Recommendation</p> <p>Please refer to Appendix 2 for the risk treatment plan listing to contain the fraud risk within LSC's risk appetite level, in particular more exception reporting and management overview.</p>

	<ul style="list-style-type: none"> • Systems and IT controls e.g. user access controls, access logs to monitor privileged system users • Analysis of management accounts and financial statements • Physical stock-take reconciliation with Finance. <p>However, we found the following controls to be improved such as:</p> <ul style="list-style-type: none"> • There is no internal audit plan covers high-risk fraud areas <p>We have identified 2 (High), 16 (Moderate) residual risk rating in the top-10 risk events.</p>	
<p>Attribute 10 – Investigation Systems <i>Councils need to ensure they have formal processes to investigate suspected fraud</i></p>	<p>Investigation is typically the last stage of the fraud control framework. Successful investigation systems document how the organisation will conduct fraud investigations and disciplinary procedures in relation to fraud perpetrators.</p>	
<p>AO results</p>	<p>LSC FCFR Observations</p>	<p>Gap Recommendation</p>
<p>Of the 83 councils that completed the survey:</p> <ul style="list-style-type: none"> • 51 have documented policies and procedures in relation to fraud investigation • 47 have documented disciplinary procedures for fraud perpetrators. <p>This is a significant gap in practice in those councils without these policies and procedures. Documenting policies and procedures in relation to fraud control increases the likelihood that staff and members of the community will report suspected fraud.</p>	<p>We noted Council has a Fraud Control Policy reviewed and approved in October 2019.</p> <p>We understand that Council has an insurance policy which covers against fraud and crime risk.</p>	<p>We recommend that council should have 'centralised' records on all fraud incidents e.g. types of fraud, action taken and outcomes (includes near misses incidents and actual fraud loss events). Furthermore, appropriate reporting to include fraud incidents quarterly to management for better decision-making processes.</p>

PART 2 – FRAUD RISK ASSESSMENT

Fraud risk assessments are the first step in preventing fraud before it takes root. The risk workshop process sought to understand how well informed, prepared and confident key personnel are to respond should a fraud event require them to do so.

Fraud risk assessment workshop sessions seek to determine the existing level of knowledge and understanding of the fraud controls and risk identification at strategic and operational levels. Participants are asked to comment in the context of their position at LSC and in relation to the fraud risk management framework and role within their area of responsibility.

Five fraud risk assessment workshops were conducted with selected Management and Executive Management personnel spanning five key business areas across LSC:

- i. Procurement**
 - Tendering and managing supplier interfaces
 - Contract management
 - Phantom vendor
- ii. Financial Management**
 - Revenue
 - Theft of cash
 - Credit card
 - Accounts Payable
- iii. Payroll**
 - Timesheet/leave entitlement
 - Personnel fraud
 - Expense/benefit claims
 - Fictitious employee
- iv. Intellectual Property/Asset Management**
 - Misuse of government equipment
 - Theft of inventory and equipment
- v. Information Systems**
 - IT-related fraud (data leakage, misuse of data)
 - Illegal software/ misuse of internet/intranet
 - Unauthorised access of systems and data

Each workshop ranged from two to two and a half hours.

Participants willingly took part and were happy to provide the information requested. There was a sense of enthusiasm to participate as they saw this as a real opportunity to improve what many consider a segregated system for fraud risk management. They were also keen to see a timely response as a result of this review.

Elements explored during the risk workshops included:

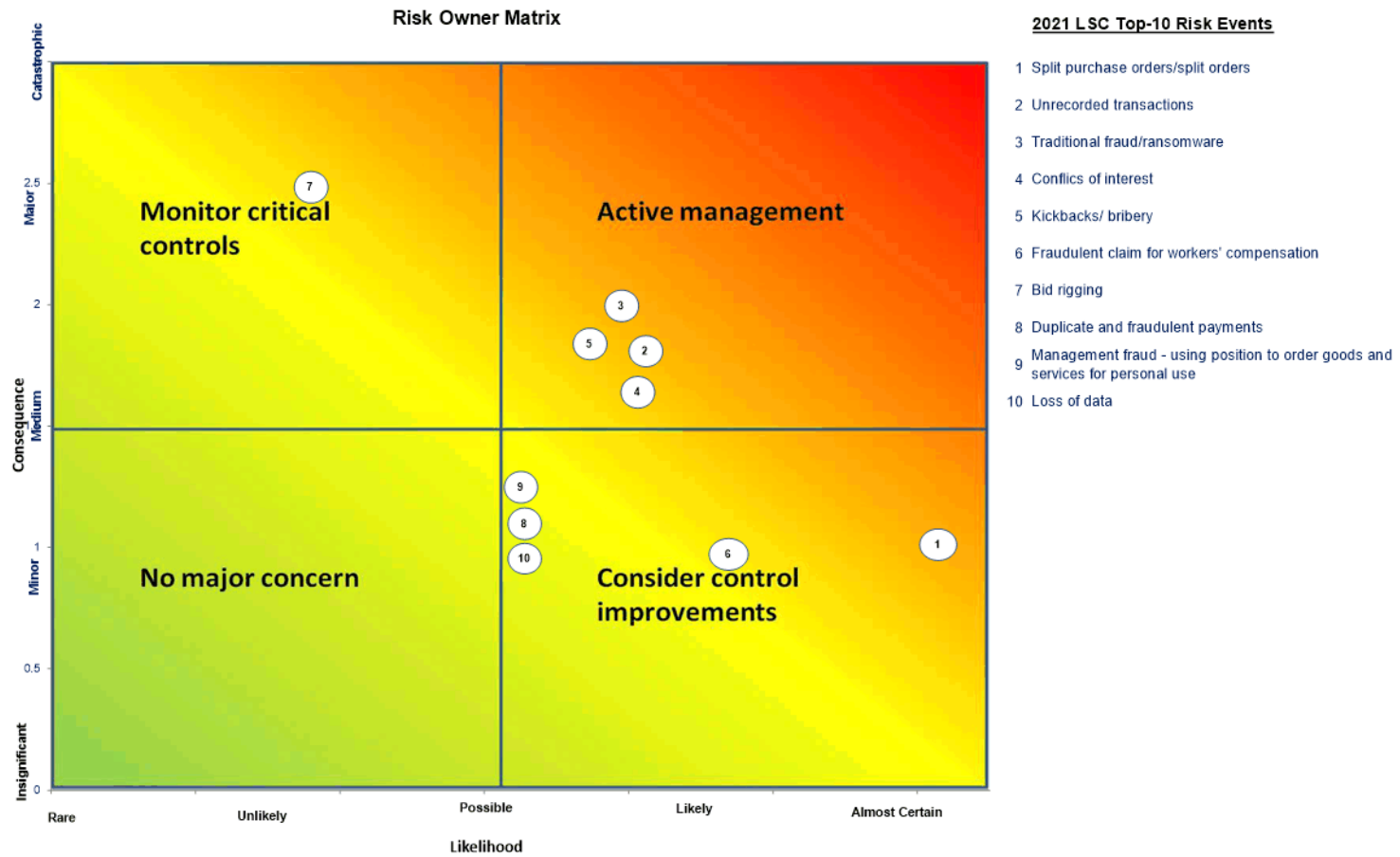
- identifying fraud threats within those areas and
- assessing the adequacy of existing controls and both manual and automated controls, to determine any corrective actions needed to mitigate fraud risk to an acceptable level. Responsibilities and timeframes for action and reporting should also be included

We have identified one Fraud Events which are categorised as HIGH. The respective action owner is accountable for improving and ensuring fraud risks are contained within LSC's risk appetite (refer to Appendix 3).

Table 2 (on the next page) shows the top-10 Fraud risks in LSC.

2021 – Top-10 Fraud Risks in LSC

Risk & Control Assessment Dashboard



PART 3 – FRAUD SURVEY RESULTS

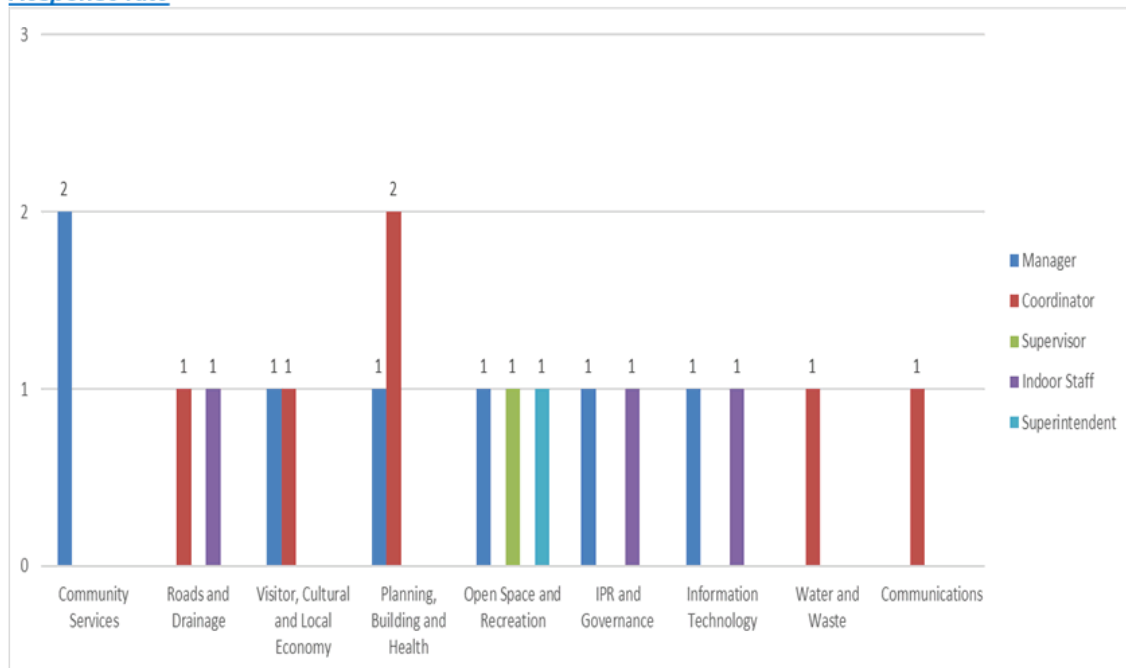
The health check consists of 26 short and simple questions, should take an employee no more than fifteen minutes to complete and responses are anonymous.

The online fraud survey was distributed to all employees in October 2020 by the Coordinator Governance & Information. Out of the 134 invitees, 18 submitted responses representing a response rate of 14% which met the Audit Office's expectation that "While responses from 10 to 20 per cent of total staff across the organisation would be sufficient, more views will provide greater insight". Please refer to Appendix 4 for further survey charts analysis.

Health Check Status

The health check report generated from the spreadsheet:

Response rate



Overall results:



Overall average score achieved is 2.74.

Improvements completed:

The results are similar to those of the Audit Office of New South Wales' Fraud survey report¹, which suggests the following areas should be further strengthened but not limited to:

- Prevention systems – LSC just completed their fraud risk assessment in June 2021.
- Fraud awareness – Fraud awareness training completed in November 2020.
- Detection systems – Consist of robust internal controls, monitoring and review processes. Engagement of external consultants for performance audit reviews can be established to improve high fraud risks area. Please refer to Part 1 – attribute 9 at page 14.

¹ NSW Auditor-General's Report to Parliament | Fraud controls in local councils | Fraud control snapshot

CONCLUSION

LSC has in place a Fraud & Corruption Control Plan outlining the strategies to be actioned during the year.

Responsibility for preventing, detecting and responding to fraud lies with all employees in LSC, within the context of their own particular role, but must be led from the top.

An unplanned fraud event can quickly spiral into a crisis if not well managed. However, with the right mechanisms in place including a culture of cohesion and openness and a sophisticated control environment – LSC will be well positioned to absorb the shocks, build 'muscle memory', and emerge stronger. The imperatives are clear: place transparency at the heart of corporate executive purpose, use it to unite strategy, governance, risk management and compliance, and find yourself better positioned to transform a potentially serious business problem into an opportunity to come out ahead.

By adopting the recommendations provided, Council will have in place a sound and effective framework for fraud prevention together with a confident and competent Team.

Finally, we are pleased to have had the opportunity to work with you in this project and look forward to being of further assistance in the future.

This report and recommendations are now submitted for your consideration.

APPENDICES

Appendix 1 – Fraud Control Improvement Kit

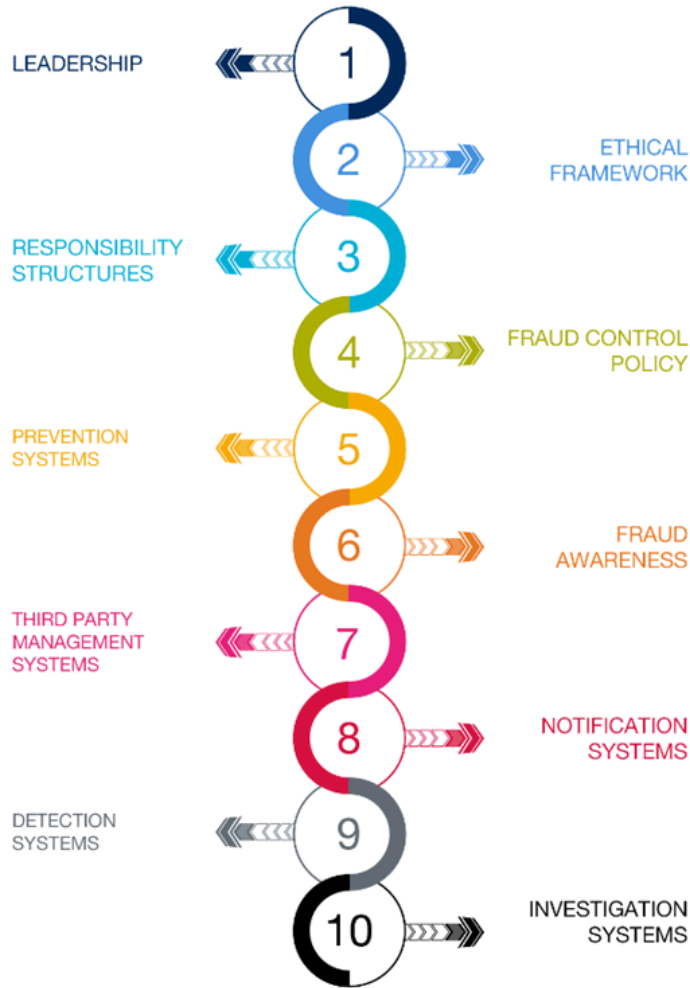
PREVENTION



DETECTION

RESPONSE

The Audit Office of New South Wales 2015 Fraud Control Improvement Kit (the Kit)



Fraud Control Resources

 Resource 1 Fraud Control Checklist	 Resource 2 Risk Assessment	 Resource 3 Fraud Control Health Check	 Resource 4 Fraud Control Improvement Workshops	 Resource 5 Sample Fraud Control Policy	 Resource 6 Procurement Checklist
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Appendix 2 – List of Documents Sighted

Review of fraud related policy and procedures; these may include but are not limited to:

- Code of Conduct;
- Conflict of Interest Declaration/Policy;
- Gift and Benefit Register/Policy;
- Statement of Business Ethics;
- Secondary Employment Policy;
- Pre-Employment Checks Policy,
- Fraud Control Plan;
- Leave Entitlement Policy
- Enterprise Risk Management Policy
- Enterprise Risk management Plan
- Public Interest Disclosure Reporting Policy
- Gifts and Benefits Register for Councillors (published on Council's website)
- Gifts and Benefits Register for Staff (published on Council's website)
- Procedures for the management of Gifts and Benefits (Council's intranet)
- Procedure for the management of Conflicts of Interest (Council's intranet)
- Leave Policy (Council's intranet)
- Recruitment Policy (Council's intranet)
- Forms – Gifts and Benefits Declaration; Conflict of Interest Declaration; Interview Panel Conflict of Interest Declaration; Reference Checks for Hiring New Employees (Council's intranet)
- Secondary Employment Form
- Fraud and Corruption Communication Plan and Key Messages

Appendix 3 – Action Plan priority List (for Top-10 risks)

No	Risk Treatment Plan	Area	Priority	Due Date	Top Fraud Risk No.	Council comments
1	Regular reviews of exception reporting on orders just below threshold limits	Procurement	HIGH	31/12/2021	1	
2	Reports on changed orders such as increase of PO limits, contract purchase agreement value	Procurement	HIGH	31/12/2021	1	
3	To explore the possibility of generating exception reporting by system for checking date of invoice vs date of PO (ensure PO should be dated before invoices). In particular, emergency repairs work or maintenance, capital works, approval and doc are required for substantiation for such liabilities committed	Financial Management	MODERATE	31/3/2022	2	
4	Monthly review of budget/expense/ project costs within the same department by the department manager	Financial Management	MODERATE	31/3/2022	2, 4, 5, 9	
5	Budget control reviews for all Purchase Requisition, Purchase Order - to be implemented in the system. (Except for utilities, operating cost, water etc.)	Financial Management, Procurement	MODERATE	31/3/2022	2, 4, 5, 9	
6	Expense module on purchase cards, transactions reviewed by Finance	Financial Management	MODERATE	31/3/2022	2	
7	Goods/services purchased without PO such as major utilities contract to be reviewed and maintained by contract manager	Financial Management	MODERATE	31/3/2022	2	
8	IT DRP to be tested and planned in the future	Information Systems	MODERATE	31/3/2022	3, 10	

FRAUD CONTROL FRAMEWORK REVIEW 2021

LEETON SHIRE COUNCIL

No	Risk Treatment Plan	Area	Priority	Due Date	Top Fraud Risk No.	Council comments
9	BCP to be tested and reviewed. Schedule to be developed and approved by SMT	Information Systems	MODERATE	31/3/2022	3, 10	Council completed the review since the workshop completed
10	Review of confidential information/ sensitive data within EDRMS	Information Systems	MODERATE	31/3/2022	3, 10	Council completed the review since the workshop completed
11	Evaluating/assessing the needs of information and devices for encryption and assess the needs for detecting any suspicious huge data transfer in and out of council	Information Systems	MODERATE	31/3/2022	3, 10	
12	Internet content filtering for all council IT devices (laptop/desktop), usage reporting and auditing capability to be implemented	Information Systems	MODERATE	31/3/2022	3, 10	
13	Australian Signals Directorate (ASD) Essential 8 framework to be implemented	Information Systems	MODERATE	31/3/2022	3, 10	Council has completed implementing the framework since the workshop completed
14	Procurement manual to be included - tendering process/minor procurement issues or types of procurement	Procurement, Financial Management	MODERATE	31/3/2022	4, 5, 9	
15	Reporting on the variations of contracts/ projects or change orders to be reviewed by manager	Procurement, Financial Management	MODERATE	31/3/2022	5, 9	
16	Peer review of the project standard requirements for accuracy, material requirement, scope of work, time schedule etc.	Procurement, Financial Management	MODERATE	31/3/2022	5, 9	
17	Support investigation of incidents and support a consultative program of improvement where improvement opportunities are identified following investigation of incidents. Then also	Payroll	MODERATE	31/3/2022	6	

FRAUD CONTROL FRAMEWORK REVIEW 2021

LEETON SHIRE COUNCIL

No	Risk Treatment Plan	Area	Priority	Due Date	Top Fraud Risk No.	Council comments
	support the RTW program, collect and file medical information and be involved with regular reporting and workers compensation case reviews.					
18	Staff is encouraged to insert the invoice number on their approved POs for ease of verification and tracing to the source documents	Financial Management	MODERATE	31/3/2022	8	

Appendix 4 – LSC Risk Rating Criteria

LIKELIHOOD	Description	Qualification
5 Almost Certain	The event is expected to occur in normal circumstances. There has been frequent past history.	Several times a year. Greater than 90% chance of occurring.
4 Likely	The event will probably occur. Some recurring past event history.	Once a year. Between 70% and 90% chance of occurring.
3 Possible	The event may occur at some time. Some past warning signs or previous event history.	Once every 5 years. Between 30% and 70% chance of occurring.
2 Unlikely	The event could occur in some circumstances. Some history within local government or community.	Once every 20 years. Between 5% and 30% chance of occurring.
1 Rare	The event may occur but only in exceptional circumstances. No recent event history.	Once every 50 years or more. Less than 5% chance of occurring.

	Very effective	Reasonably effective	Somewhat effective
CONTROL EFFECTIVENESS	Fully documented process, staff adequately trained, control well communicated, control is regularly audited, no audit issues, no incidents of control failure	Documentation, training and/or communication could be improved to enhance consistency of operation, control design can be improved, no recent audits and some known issues	The control is not very reliable, not well designed, not documented and/or communicated. No regular training, historical audit issues, frequent incidents

RISK LEVEL RATING		Likelihood				
		1 - Rare	2 - Unlikely	3 - Possible	4 - Likely	5 - Almost Certain
Consequence	5 - Catastrophic	5-Moderate	10-High	15-High	20-Extreme	25-Extreme
	4 - Major	4-Low	8-Moderate	12-High	16-High	20-Extreme
	3 - Medium	3-Low	6-Moderate	9-Moderate	12-High	15-High
	2 - Minor	2-Low	4-Low	6-Moderate	8-Moderate	10-High
	1 - Insignificant	1-Low	2-Low	3-Low	4-Low	5-Moderate

Extreme Risk:	immediate action required, executive management/Council will be involved.
High Risk:	executive management accountability with senior management responsibility specified
Moderate Risk:	manage by specific monitoring or response procedures within line management delegations.
Low Risk:	manage by routine procedures and low level delegations, unlikely to need specific application of resources.

FRAUD CONTROL FRAMEWORK REVIEW 2021

LEETON SHIRE COUNCIL

CONSEQUENCE	Financial	People	Environment	Governance & Reputation	Legal & Regulatory	Service & Project Delivery
	Financial impacts	Safety & Wellbeing impacts	Environmental impacts	Credibility, political impacts	Regulatory, Compliance & Legal impacts	Service, project, strategic or delivery program impacts
5 Catastrophic	> \$1M financial loss or >30% adverse impact on budgeted income or expenses External audit qualification. Threatens financial sustainability. May require State government intervention.	Multiple losses of life or permanent disability, extensive injuries to several people. Long term impact on morale or community, prosecution for breach of legislation (WHS). Long term duration lost time injury.	Detrimental long term environmental impact. Total destruction of a species, habitat or ecosystem. Requires over 10 years repair. National media interest. Criminal prosecution.	Substantiated, public embarrassment. Total loss of stakeholder trust that takes many years to repair. Sustained negative national or state media coverage lasting more than 1 week. Minister or Regulator involved in issue resolution.	Significant breach leading to investigation by external agency resulting in successful prosecution or sacking of Senior Officers, Council / elected representatives, administrator appointed.	Inability to deliver critical programs and/or services for >7 days. > 4 weeks project time slippage. Significant adverse impact on services visibly obvious to key stakeholders. Major scope changes and noticeable quality degradation require redesign.
4 Major	\$500K to \$1M financial loss or 20-30% adverse impact on budgeted income or expenses Internal Auditor or Auditor General review qualification. Major, longer-term negative implications for Council's ability to finance delivery of capital projects and/or services.	Single death, or long-term disabling injuries to one or more people (staff or public), major localised impact on morale or wider community, one off major breach of legislation (WHS). Medium duration lost time injury of greater than 1 month.	Medium term damage, regional impact. Medium-term (5-10 years) environmental damage. State media interest. Multiple community complaints. Notification to authority required. Civil prosecution.	Substantiated, public embarrassment. Some loss of stakeholder trust that takes many months to repair. Significant adverse media at state level lasting up to 1 week. Local member attention. Major internal inquiry required.	Major breach or systemic breaches leading to investigation by external agency e.g. ICAC resulting in negative findings, fines or penalties	Severe and widespread decline in services. Relationship with stakeholders / key suppliers becomes strained. Inability to deliver critical programs and / or services for 4-7 days. 3-4 weeks project time slippage. Noticeable quality degradation requires remediation and Council approval, possible safety issues.
3 Medium	\$150K to \$500K financial loss or 10-20% adverse impact on budgeted income or expenses Medium term impacts on Council's ability to finance delivery of capital projects and/or services requiring some trade-offs between initiatives and service levels.	Short term impact on morale or community. Minor breach of legislation (WHS/employment laws). Serious injury or multiple minor medical treatment. Short duration lost time injury greater than 5 days.	Environmental damage is evident. Medium-term (2-5 years) environmental damage. Local media interest. Repeat community complaints. Regulatory enforcement action (e.g. fine, notice, order).	Substantiated, public embarrassment, moderate media profile (front page, one day). Significant concerns from key stakeholders or substantial increase in number of complaints. Short-term negative media extends to major metropolitan press. An internal inquiry may be required.	Technical breach of legislation resulting in small fine, warnings, investigation finding technical breach of legislation and improvement notices issued. A high threat of legal action. Crisis management required.	Inability to deliver critical programs, and/or services for 2-3 days. 1-2 weeks project time slippage. Decline in council or key supplier service levels that cause a disruption to key stakeholders.
2 Minor	\$50K to \$150K financial loss or 5-10% adverse impact on budgeted income or expenses Some minor impacts on funding of individual initiatives and services requiring supplementary funding or reprioritisation.	Some short-term localised impact on staff morale, community or customer relations. Minor injuries or illness from normal activities treated by first aid. Lost time 5 days or less.	Environmental impact is evident. Up to 2 years recovery period. Does not impair the overall condition of the habitat or ecosystem.	Substantiated, low impact, low media profile (not front page news) from individual stakeholders. Small amount of short-term, non-recurring negative local media.	Minor breach of legislation, isolated complaint or incident where there is a threat of legal action that can be resolved by management.	Some delays in meeting stakeholder expectations. < 1 week project time slippage. Noticeable decline in service levels Unscheduled short-term disruption for up to 1 business day.
1 Insignificant	<\$50K financial loss or up to 5% adverse impact on budgeted income or expenses Minimal or no adverse impact on Council's overall finances.	Localised concerns by staff, community or customers. Minor incident or 'near miss'. No lost time.	Negligible environmental impact. No corrective action needed. No impact on the overall condition of the habitat and ecosystem.	Unsubstantiated, low profile media exposure, minor isolated concerns raised, resolved by day-to-day management. Little to no public or media interest.	Minor non-compliance, complaint or isolated breach resolved by day-to-day management.	Scheduled interruptions. An inconvenience with minimal or no adverse impact on projects or other service activities. Unscheduled interruptions for less than 4 hours. Little or no impact on delivery program.

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**ITEM 8.9 DELIVERY PROGRAM AND OPERATIONAL PLAN PROGRESS REPORT FOR
QUARTER 2, 2021/22**

RECORD NUMBER	21/511
RELATED FILE NUMBER	EF21/104/05
AUTHOR/S	Corporate and Community Planning Officer
APPROVER/S	Executive Manager IPR, Governance and Engagement

SUMMARY/PURPOSE

The purpose of this report is to present to Council the Quarter 2 (October to December 2021) update on the progress of implementing the commitments outlined in Leeton Shire Council's Delivery Program and Operational Plan (DPOP).

RECOMMENDATION

THAT Council notes for information the Leeton Shire Council Delivery Program and Operational Plan Quarter 2 Progress Report (October to December 2021).

REPORT

(a) Background

Under the Integrated Planning and Reporting framework of the *Local Government Act 1993*, the General Manager must ensure that progress reports are provided to Council with respect to the principal activities detailed in the Delivery Program at least every six months. Reports will be provided to Council on a six-monthly basis for 2021/22 and quarterly from 2022/23.

(b) Discussion

The quarterly progress reports sit within a hierarchy of reporting that enables Council's Executive, managers and elected representatives to monitor the progress of implementing key plans, including the Delivery Program and Operational Plan.

The attached report provides the second quarterly update on the progress and performance of Leeton Shire Council in delivering on the commitments articulated in the Delivery Program 2017–2022 and the Operational Plan 2021/22.

This report includes some trend data (primarily comparing this reporting period's results with the same period of the previous year) which will enable Council to track progress over time, particularly in relation to the desired outcomes.

Each of the actions outlined in the Delivery Program and Operational Plan has been allocated a status:

- Critical Concerns – there are major issues associated with this activity
- On Track – the activity is progressing as expected
- Needs Attention – the activity needs some additional input or focus to get it back on track
- Not Due to Start – the activity is not scheduled to start in this quarter
- Completed – a project has been completed (this is applied to projects only and is not to be used for other activities).

Leeton Shire Council oversaw a total of 204 actions in Quarter 2.

Status of activity	●	●	●	●	●
Number of activities	0	185	5	11	3

COVID-19 restrictions have continued to affect the number of hirers of the Multipurpose Centre rooms, number of visitors to the library and the Leeton Visitor Information Centre, and participants in the Leeton After School Care (ASC) and Vacation Care (VC) programs.

● **Quarter 2 Actions Needing Attention or Noting**

CSP. Theme	Code	Action	Comment
An Active and Enriched Community	7a.01	Complete the refurbishment of the Roxy Theatre both internally and externally	Contract negotiations for Stage 1 almost complete. Council will seek \$3M for Stage 2 from the federal government and other philanthropic opportunities.
A Quality Built Environment	15b.01	Provide and maintain sewage treatment and effluent discharge plants and reticulation services at Leeton, Yanco and Whitton, including the: <ul style="list-style-type: none"> ● renewal of manholes and a section of the pipe network ● Safety improvements at the pump station in Market Plaza ● odour control measures implemented at a number of pump stations ● desludging of the sludge pond at the Leeton 	Following NSW EPA concerns about coliform non-compliance in the effluent discharge, Council engaged DP8 Engineering to help develop an improved disinfection system at the Leeton Sewage Treatment Plant. This was received and reviewed with the proposal put to NSW DPIE. A meeting will be held in the future with DPIE LSC and DP8 to clarify the proposal. Scheduled maintenance, renewal and capital works program actions completed: <ul style="list-style-type: none"> ● Grevillia Street Sewer main (110m) has been completed and connections to properties is in progress.

		<p>Treatment Plant</p> <ul style="list-style-type: none"> • upgrade of the building at the Yanco Sewerage Treatment Plant • extension of network to new connections, as per request • strategic review of service areas to close gaps and plan for growth 	<ul style="list-style-type: none"> • Desludging of the Sewer Treatment Plan sludge lagoon is programmed to commence late October 2022. • Sewer Pump Station 4 Completed • Major works on Sewer Pump Station 2 in design phase.
	15b.02	Design and construct a sewer network for the Wamoon Sewerage Scheme	Design is complete for Wamoon gravity reticulation and rising main. Final drawings; Review of Environmental Factors; Safety in Design Report; and Waterhammer Assessment for tender to be completed over the Christmas break by consultants. Planning to go to tender in February 2022. Funder requires the project to be completed by 30 June 2022 which may be difficult to achieve. Discussions will be held.
Strong Leadership	20b.07	Maintain Council's financial sustainability through maximising investment returns	The downturn in investment returns has continued. Council has sought to increase returns whilst still protecting its capital through making longer term investments and making more use of lesser-known financial institutions and Government bonds. While this will increase returns it may not make up the current shortfall. The budget has been revised down to \$400,000.
	20d.02	Implement Council's Work Health and Safety program	Nil major non conformances. 90% of corrective actions completed with nil regulatory authority notices issued. There has been 848.5 hours lost YTD to five injuries which incurred lost time. Calculation is number of days lost/number of employees x 100.

(c) Options

Nil – this report is for noting only.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Council's adopted and reviewed budget supports the implementation of the adopted Delivery Program.

(b) Policy

The Delivery Program progress report provides Council with an opportunity to determine the effectiveness of each of its activities (services, programs, projects and so on) in achieving the goal at which it is directed.

Trend and comparative data allow Council to consider whether particular activities need to be reconsidered, re-prioritised or resourced differently in order to more effectively achieve the desired outcome.

(c) Legislative/Statutory

The Integrated Planning and Reporting framework of the *Local Government Act 1993*.

(d) Risk

This report provides a tool for Council to monitor the progress and performance of its activities and take corrective action where necessary to address any risks identified through the reporting process.

CONSULTATION

(a) External

Nil

(b) Internal

All responsible officers identified in Council's Delivery Program 2017–2022 and Operational Plan 2021/2022.

Senior Management Team

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 19 - A community that speaks up and gets involved - 19 b - Seek input from our community on Council projects and programs - Run an active community engagement program

ATTACHMENTS

- 1 Quarter Two Progress Report - 2021/22 - *Attached separately*

CORPORATE MATTERS

ITEM 8.10 2021/22 BUDGET REVIEW FOR THE QUARTER ENDING 31 DECEMBER 2021

RECORD NUMBER	22/24
RELATED FILE NUMBER	EF22/2
AUTHOR/S	Manager Finance
APPROVER/S	Group Manager Corporate

SUMMARY/PURPOSE

The purpose of the Quarterly Budget Review (QBR) is to provide a summary of Council's financial position as at the end of the second quarter (31 December 2021) for the year ending 30 June 2022.

RECOMMENDATION

THAT Council considers the QBR as at 31 December 2021, and approves the changes as recommended by Management.

REPORT

(a) Background

The QBR is required to be prepared quarterly in a prescribed format to inform Council of progress against the original budget along with recommended changes and reasons for the variances.

(b) Discussion

A copy of the Quarterly Budget Review document is provided at **Attachment 1** summarised below.

Quarterly Budget Review Summary – Consolidated Income Statement

The **recommended budget changes** and detailed explanations and schedules are provided within **Attachment 1** with the Income Statement and commentary on page 3 and supporting schedules on page 5.

The major recommendations relate to changes that have been identified since completion of the 2021/22 Budget and are:

- Recognise the costs of the changes to the running of Gogeldrie Weir Caravan Park
 - \$200k for CBD stage 1&2 completion (Roxy Forecourt) as approved in September 2018
 - Recognise the increased consultant costs for preparation of the DPOP and LTFP.
-

Other recommendations include recognition of new grants and associated expenses as well as moving funds between accounts.

After incorporation of the changes, Council's forecast results for 30 June 2022 are:

- *Net operating result for the year* - surplus of \$13.9M (Actual for year ended 30 June 2021: surplus of \$2.5M).
- *Net operating result for the year before grants and contributions provided for capital purposes* - loss of \$4.7M. Actual for year ended 30 June 2021: loss of \$4.4M).

Quarterly Budget Review Summary – Capital Budget

The **recommended budget changes** and detailed explanations and schedules are provided within **Attachment 1** with the Capital Budget and commentary on page 4 and supporting schedule on page 7.

Council's original budget was for \$25.9M in capital works which, with recommended Carry Overs and Re-votes and changes, will rise to \$38.0M.

Management will continue to monitor the capital program to ensure its delivery in full or to ensure prioritization of projects, if required. Considering the size of the program, management will seek to identify which projects are likely to be delayed, postponed or sought to be removed from the program.

Quarterly Budget Review Summary – Cash and Investments

The **recommended budget changes** and detailed explanations and schedules are provided within **Attachment 1** with the Cash and Investments and commentary on page 8 and a schedule of items on page 5.

After incorporation of the changes Council's 2021/22 Cash and Investments position is forecast to decrease by \$7.8M from \$47M, as at 30 June 2021, to \$38.9M as at 30 June 2022, including a decrease in unrestricted cash by \$1m from \$1.9M to \$900K.

Please note that the forecast Cash and Investments position is conditional on work completion and timing of receipt of milestone payments.

Conclusion

The QBR recommendations include completion of the CBD Upgrade, adjustments for the Gogeldrie Weir activity and increased consultant costs, as well as a number of minor amendments, that have been identified since completion of the September QBR. These recommendations have a small impact on the forecast financial position, capital budget and cash position of Council as at 30 June 2022.

(c) Options

1. Adopt the Quarterly Budget Review as recommended.
2. Adopt the Quarterly Budget Review with amendments.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Overall Position

The Responsible Accounting Officer Statement (**Page 2 of Attachment 1**) indicates that Council's position at 31 December 2021 is considered satisfactory compared to the original 2021/22 Budget which was adopted by Council.

(b) Policy

The Quarterly Budget Review is required in accordance with clause 203 of the Local Government (General) Regulation 2021.

(c) Legislative/Statutory

Specifically, clause 203 of the Local Government (General) Regulation 2021 states the following:

1. Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.
2. A budget review statement must include or be accompanied by:
 - (a) A report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and
 - (b) If that position is unsatisfactory, recommendations for remedial action.
3. A budget review statement must also include any information required by the Code to be included in such a statement.

(d) Risk

If Council does not adopt the December 2021 Budget Review Statements, then Leeton Shire Council will not meet its compliance obligations.

Cashflow will need to be monitored to ensure funds are readily available for Council to pay its debts on time, especially given the unprecedented capital works program.

Council may need to reconsider the timing and scope of its capital works program due to the available time and resources.

CONSULTATION

(a) External

Nil

(b) Internal

All Officers Responsible for Budget Management
Senior Management Team

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot - 20 b - Strive to deliver the aspirations of the community through sound financial and asset management - Monitor and manage Council's performance against local government industry benchmarks".

ATTACHMENTS

1 [↓](#) QBR Summary - December 2021



Leeton Shire Council

July to December, 2021 Quarterly Budget Review Summary

<u>Page</u>	<u>Contents</u>
2	Responsible Accounting Officer Statement
3	Revised Income Statement with Variations
4	Revised Capital Expenditure Review with Variations
5	Listing of Changes
6	Revised Income Statement by Fund
7	Revised Summary by Function
8	Revised Cash and Investments
9	Contracts Awarded During Quarter
10	Legal and Consultants Expenditure
11	Tradeable Water Sales and Bad Debts

Leeton Shire Council
July to December, 2021 Quarterly Budget Review Summary

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 2005.

It is my opinion that the Quarterly Budget Review Statement for Leeton Shire Council for the quarter ended 31 December, 2021 indicates that Council's projected financial position at 30 June 2022 will be satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Signed:  Date: 07/02/22

Responsible Accounting Officer, Leeton Shire Council

LEETON SHIRE COUNCIL
Budgeted Income Statement - Consolidated
July to December, 2021 Quarterly Budget Review Summary

BUDGET REVIEWS FOR 2021/2022

Note	2021-2022	2021-2022	Changes Sought	2021-2022		2021-2022	
	Original Budget	1st Quarter Budget	2nd Quarter Budget	Revised Budget Income	Orig. Shift %	Actual YTD	YTD%
	\$	\$	\$	\$		\$	
	Inflows from Continuing Operations						
	Rates and Annual Charges	13,977,235	-	13,977,235	0%	13,569,079	97%
	User Fees and Charges	8,182,287	2,952	8,185,239	0%	2,883,926	35%
	Interest and Investment Revenue	515,700	-	515,700	0%	54,287	11%
a	Grants & Contributions - Operating	5,969,028	183,717	6,313,745	3%	1,971,405	31%
	Grants & Contributions - Capital	13,204,643	5,417,826	18,622,469	0%	6,183,199	33%
b	Other Income	2,591,881	(54,329)	2,537,552	-2%	1,269,529	50%
	Net Gains from Disposal of Assets	250,000	-	250,000	0%	74,971	30%
c	Total Income	44,690,774	5,604,494	106,671	0%	26,006,395	52%
	Outflows from Continuing Operations						
d	Employee Costs	14,050,503	16,050	14,177,553	1%	6,735,156	48%
	Borrowing Costs	106,250	-	106,250	0%	55,416	52%
e	Materials and Contracts	7,482,351	628,546	8,332,897	3%	2,802,702	34%
	Depreciation and Amortisation	6,940,117	1,272,414	8,212,531	0%	4,213,264	51%
	Other Expenses	3,041,911	-	3,041,911	0%	1,767,481	58%
	Net Loss from Disposal of Assets	-	1,400,000	1,400,000	-	-	-
f	Total Expenses	31,621,132	3,317,010	333,000	1%	15,574,019	44%
g	Less:- Transfers from Restrictions	760,000	288,584	145,671		-	
	Operating Result from Continuing Operations	12,309,643	1,998,900	(372,000)		10,432,376	
	Net Operating Result for the Year before Grants and Contributions Provided for Capital Purposes	(895,001)	(3,418,926)	(372,000)		4,249,177	
	Add back:- Transfers from Restrictions	760,000	288,584	145,671			
	Net Operating Result as per budget formula	(135,001)	(3,130,342)	(226,329)		4,249,177	

Notes - Refer page 5 for detail and below

e Includes prior period adjustment of \$288,589 relating to Restrictions

LEETON SHIRE COUNCIL
 Capital Budget Review
 July to December, 2021 Quarterly Budget Review Summary

2021/2022						
	Original Annual Budget	Sept Review	Revised	Changes Sought	Revised Annual Forecast	Actual YTD
Capital Expenditure						
New assets						
- office equipment	520,000	-	520,000	-	520,000	204,196
a - plant & equipment	-	450,000	450,000	30,000	480,000	426,037
- land & buildings	3,600,655	-	3,600,655	-	3,600,655	-
- parks, gardens & recreation	441,000	-	441,000	-	441,000	-
- roads, bridges, Stormwater & footpaths	730,500	-	730,500	-	730,500	-
- waste	139,000	-	139,000	-	139,000	-
- water supply	165,000	-	165,000	-	165,000	-
- sewerage services	1,632,500	-	1,632,500	-	1,632,500	-
Renewals (replacements)						
- plant & equipment	1,200,000	52,313	1,252,313	-	1,252,313	346,725
b - land & buildings	8,285,300	2,448,957	10,734,257	267,000	11,001,257	273,936
- parks, gardens & recreation	215,000	1,142,791	1,357,791	-	1,357,791	650,082
- roads, bridges, Stormwater & footpaths	6,884,558	3,715,055	10,599,613	-	10,599,613	2,452,102
- waste	250,000	173,688	423,688	-	423,688	36,397
Subtotal of General Fund	24,063,513	7,982,804	32,046,317	297,000	32,343,317	4,389,475
- water supply	1,257,000	676,079	1,933,079	-	1,933,079	483,526
- sewerage services	610,000	3,132,658	3,742,658	-	3,742,658	246,706
Total Capital Expenditure	25,930,513	11,791,541	37,722,054	297,000	38,019,054	5,119,708

Notes - Refer pages 5 and 7

- a Equipment for Gogeldrie Weir
- b Acquisition of improvements - Gogeldrie Weir (\$67k) and Completion CBD Enhancement stage 1&2 (Roxy Forecourt) \$200k as budgeted in September 2018 but omitted from carry forwards.

Recommended Changes, Carry Overs and Revotes

		<u>Revotes & Adjustments</u>		<u>Total</u>	<u>Total</u>	
		<u>Operating</u>	<u>Capital</u>	<u>Operating</u>	<u>Capital</u>	<u>Total</u>
		<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>
Reserve Transfers						
b	Façade painting reserve - retain for future program	(54,329)		(54,329)	-	(54,329)
	Infrastructure Reserve - CBD Enhanc. 1&2 (Roxy forecourt)		200,000	-	200,000	200,000
g		(54,329)	200,000	(54,329)	200,000	145,671
Operating Grants and Contributions						
	Grant Australia Day	37,000		37,000	-	37,000
	Grant Regional Youth Summer Holiday Break Program	10,000		10,000	-	10,000
*External Party Operating Grants and Contributions						
	Leeton Multicultural Support Group Inc	60,000		60,000	-	60,000
	Leeton Connect	54,000		54,000	-	54,000
a		161,000	-	161,000	-	161,000
Total Income Increases & Borrowings						
c		106,671	200,000	106,671	200,000	306,671
EXPENDITURE VARIATIONS						
Employee Costs						
	Leeton Pool additional salary	10,000		10,000		10,000
	Kiosk -Salaries	(10,000)		(10,000)		(10,000)
*External Party Employee Costs						
	Welcoming Cities Project- Salaries	10,000		10,000		10,000
	Leeton Multicultural Support Group Inc.- Salaries	50,000		50,000		50,000
	Leeton Connect- Salaries	51,000		51,000		51,000
d		111,000	-	111,000	-	111,000
Materials and Contracts						
	Community Event Expenses	37,000		37,000	-	37,000
	Youth Services	10,000		10,000		10,000
	IP&R Preparation Expense	67,000		67,000	-	67,000
	Consultant Expense	80,000		80,000		80,000
	Gogelderie Weir - Maintenance	25,000		25,000	-	25,000
*External Party Materials and Contracts						
	Grant expenditure - Leeton Connect	3,000		3,000	-	3,000
e		222,000	-	222,000	-	222,000
f	Total Expenditure Increases	333,000	-	333,000	-	333,000
	Net Variations	(226,329)	200,000	(226,329)	200,000	(26,329)
Capital Projects Included						
	Gogelderie Weir - Equipment		30,000	-	30,000	30,000
	Gogelderie Weir - Capital Works		67,000	-	67,000	67,000
	CBD Enhancement Stage 1&2 (Roxy Forecourt)		200,000	-	200,000	200,000
		-	297,000	-	297,000	297,000
Capital Projects Funding						
Unrestricted Cash						
		-	97,000	-	97,000	97,000
Reserve Transfers - for Capital Projects not included in Income Statement						
	Infrastructure Reserve - CBD Enhanc. 1&2 (Roxy Forecourt)	-	200,000	-	200,000	200,000
		-	297,000	-	297,000	297,000

* Third Party items do not relate to Council's operations and will be removed next QBR.

LEETON SHIRE COUNCIL
Budgeted Income Statement by Fund
July to December, 2021 Quarterly Budget Review Summary

Note	General Fund			Water Fund			Sewer Fund			Consolidated		
	Original Budget	Revised Budget	Actual YTD	Original Budget	Revised Budget	Actual YTD	Original Budget	Revised Budget	Actual YTD	Original Budget	Revised Budget	Actual YTD
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Income from Continuing Operations												
Rates and Annual Charges	9,840,757	9,840,757	9,841,915	1,545,478	1,545,478	1,556,127	2,591,000	2,591,000	2,171,037	13,977,235	13,977,235	13,569,079
User Fees and Charges	4,919,182	4,922,134	2,210,409	2,856,105	2,856,105	626,948	407,000	407,000	46,568	8,182,287	8,185,239	2,883,926
Interest and Investment Revenue	221,000	221,000	12,435	167,200	167,200	31,670	127,500	127,500	35,052	515,700	515,700	54,287
Grants & Contributions - Operating	5,969,028	6,313,745	1,971,405	-	-	-	-	-	-	5,969,028	6,313,745	1,971,405
Grants & Contributions - Capital	13,204,643	17,454,969	6,115,378	-	-	67,821	-	1,167,500	-	13,204,643	18,622,469	6,183,199
Other Income	2,423,881	2,369,552	1,224,451	158,500	158,500	44,867	9,500	9,500	211	2,591,881	2,537,552	1,269,529
Net Gains from Disposal of Assets	250,000	250,000	74,971	-	-	-	-	-	-	250,000	250,000	74,971
Total Income	36,828,491	41,372,156	21,426,093	4,727,283	4,727,283	2,327,433	3,135,000	4,302,500	2,252,868	44,690,774	50,401,939	26,006,395
Expenses from Continuing Operations												
Employee Costs	11,535,729	11,662,779	5,216,297	1,450,441	1,450,441	905,094	1,064,333	1,064,333	613,764	14,050,503	14,177,553	6,735,156
Borrowing Costs	106,250	106,250	55,416	-	-	-	-	-	-	106,250	106,250	55,416
Materials and Contracts	6,822,136	7,331,718	1,817,529	944,815	1,519,566	719,314	475,400	675,868	265,859	8,242,351	9,527,152	2,802,702
Depreciation and Amortisation	4,727,892	5,864,366	3,270,410	1,301,500	1,395,521	462,617	910,725	952,644	480,236	6,940,117	8,212,531	4,213,264
Other Expenses	2,515,111	2,515,111	1,496,549	269,800	269,800	121,661	257,000	257,000	149,271	3,041,911	3,041,911	1,767,481
Net Loss from Disposal of Assets	-	1,400,000	-	-	-	-	-	-	-	-	1,400,000	-
Total Expenses	25,707,118	28,880,224	11,856,202	3,966,556	4,635,327	2,208,687	2,707,458	2,949,845	1,509,130	32,381,132	36,465,396	15,574,019
Operating Result from Continuing Operations	11,121,374	12,491,932	9,569,892	760,727	91,956	118,746	427,542	1,352,655	743,739	12,309,643	13,936,543	10,432,376
Net Operating Result for the Year before Grants and Contributions Provided for Capital Purposes	- 2,083,270	- 4,963,037	3,454,514	760,727	91,956	50,925	427,542	185,155	743,739	- 895,001	- 4,685,926	4,249,177
Reconciliation to Budget and Budget Summary												
Other Budget Items												
Transfer from Restricted funding	760,000	1,000,000	-	-	94,021	-	-	100,234	-	760,000	1,194,255	-
Net Operating Result as per budget formula	- 1,323,270	- 3,963,037	3,454,514	760,727	185,976	50,925	427,542	285,389	743,739	- 135,001	- 3,491,671	4,249,177
Total Budget Operational Income	24,383,848	24,917,187	15,310,716	4,727,283	4,821,304	2,259,612	3,135,000	3,235,234	2,252,868	32,246,131	31,779,470	19,823,196
Total Budget Operational Expenses	25,707,118	28,880,224	11,856,202	3,966,556	4,635,327	2,208,687	2,707,458	2,949,845	1,509,130	32,381,132	35,271,142	15,574,019
Budgeted Summary	- 1,323,270	- 3,963,037	3,454,514	760,727	185,976	50,925	427,542	285,389	743,739	- 135,001	- 3,491,671	4,249,177

See the Budgeted Income Statement, Consolidated on page 3 for details on the recommended budget changes.

Notes

- a The Net Operating result from continuing Operations reflects the result as would be reported in a standard "Income Statement" format as used in the annual financial statements.
- b The use of Restricted Funds is not included in a standard "Income Statement" but is in Council's budgets historically. See details on page 7.
- c Net operating result as per budget formula reconciles the standard "Income Statement" format to Council's published "Budgeted - Income Statement - Consolidated" and breaks this down by fund.
- d Reconciles the balances to the council's published "Budgeted Summary of Financial Activities by Function".

LEETON SHIRE COUNCIL
Summary by Function - Consolidated
July to December, 2021 Quarterly Budget Review Summary

BUDGET REVIEWS FOR 2021/2022					
Note	2021-2022	Budget Revotes	*Changes Sought	2021-2022	
	Original Budget	1st Quarter Budget	2nd Quarter Budget	Revised Budget	Orig% Shift
	\$	\$	\$	\$	
	Income				
	Corporate and Governance	2,685,408	-	2,685,408	0%
	Public Order and Safety	164,500	-	164,500	0%
	Health and Environment	302,200	-	302,200	0%
a	Community Services	2,279,413	-	2,343,413	3%
	Housing and Community Amenities	794,650	-	794,650	0%
	Recreation and Culture	966,382	-	966,382	0%
	Manufacturing and Mining	143,500	-	143,500	0%
	Transport and Communication	1,270,822	2,952	1,273,774	0%
b	Economic Affairs	249,821	238,046	530,538	112%
	General Purpose Revenues	12,613,461	-	12,613,461	0%
	Waste Management	2,913,691	40,000	2,953,691	1%
	Water	4,727,283	94,021	4,821,304	2%
	Sewerage	3,135,000	100,234	3,235,234	3%
	Total Income	32,246,131	475,252	32,828,054	2%
	Expenses				
c	Corporate and Governance	6,608,388	1,523,788	8,279,174	25%
	Public Order and Safety	567,116	4,365	571,481	1%
	Health and Environment	994,644	(54,326)	940,318	-5%
d	Community Services	2,169,290	4,484	2,237,774	3%
	Housing and Community Amenities	1,124,860	320,148	1,445,008	28%
	Recreation and Culture	4,428,083	108,187	4,536,270	2%
	Manufacturing and Mining	190,196	-	190,196	0%
	Transport and Communication	5,997,134	282,604	6,279,738	5%
e	Economic Affairs	1,143,988	433,472	1,699,460	49%
	Waste Management	2,483,419	265,970	2,749,389	11%
	Water	3,966,556	574,751	4,541,307	14%
	Sewerage	2,707,458	142,153	2,849,611	5%
	Total Expenses	32,381,132	3,605,595	36,319,725	12%
	Consolidated Net Surplus/(deficit):	(135,001)	(3,130,343)	(3,491,671)	

Notes - From Recommended Changes, Carry Overs and Revotes on Page 5

	Income	Expense
a,d Community Services		
Grant Regional Youth Summer Holiday Break Program	10,000	
Leeton Connect	54,000	
Welcoming Cities Project- Salaries		10,000
Leeton Connect- Salaries		51,000
Grant Expenditure - Leeton Connect		3,000
	64,000	64,000
b,e Economic Affairs		
Façade painting reserve - retain for future program	-	54,329
Grant - Australia Day		37,000
Leeton Multicultural Support Group Inc		60,000
Leeton Multicultural Support Group Inc.- Salaries		50,000
Community Event Expenses		37,000
Youth Services		10,000
Gogelderie Weir - Maintenance		25,000
	42,671	122,000
c Corporate & Governance		
IP&R Preparation Expense		67,000
Consultant Expense		80,000
		147,000
Total	106,671	333,000

Leeton Shire Council
July to December, 2021 Quarterly Budget Review Summary
Cash & Investments

	2021/2022						
	Original Annual Budget	Year End Adjustments & Budget Transactions	Sept Review	Revised Balance 30/09/2021	Changes sought 31/12/2021	Revised Annual Forecast	Actual as at 31/12/2021
Externally Restricted							
Unexpended Loans		-		-		-	-
Developer Contributions - General	89,574	545,885	(503,000)	132,459	-	132,459	132,459
Developer Contributions - Water	27,951	1,781	-	29,732	-	29,732	29,732
Developer Contributions - Sewer							
RMS Contributions							
Specific Purpose Unexpended Grants	625,464	1,857,910	(974,143)	1,509,231	-	1,509,231	1,509,231
Water Supply - carry over works	15,410	359,480	(374,890)	-	-	-	-
Water Supply	12,723,230	4,034,159	(395,210)	16,362,179	-	16,362,179	17,386,643
Sewerage Services - carry over works		1,791,569	(1,791,569)	-	-	-	-
Sewerage Services	3,600,412	4,013,999	(273,823)	7,340,588	-	7,340,588	9,688,347
Domestic Waste Management	2,004,212	1,513,119	(213,688)	3,303,643	-	3,303,643	4,631,088
Stormwater Management	186,966	(95,252)	-	91,714	-	91,714	91,714
Deposits, Bonds & Retentions	331,874	(1,200)	-	330,674	-	330,674	330,674
Total Externally Restricted	19,605,093	14,021,460	(4,524,323)	29,100,220		29,100,220	33,799,907
Internally Restricted							
Plant & Vehicle Replacement	2,813,265	(813,265)	(450,000)	1,550,000	-	1,550,000	1,550,000
Computer & Office Equipment	150,000	(150,000)	-	-	-	-	-
Infrastructure Replacement	1,339,951	660,049	(479,387)	1,520,613	(200,000)	1,320,613	1,320,613
Infrastructure Replacement (Special)	324,000	(324,000)	-	-	-	-	-
Employee Leave Entitlements	2,262,793	(935,839)	-	1,326,954	-	1,326,954	1,326,954
Fire and Emergency Services	30,000	(30,000)	-	-	-	-	-
Unfinished Works (General) Restriction	754,208	(754,208)	-	-	-	-	-
Community Services/Youth Services	16,050	(16,050)	-	-	-	-	-
Community Grant Schemes	5,775	(5,775)	-	-	-	-	-
Buildings	1,010,637	(10,637)	-	1,000,000	-	1,000,000	1,000,000
Eventide Homes	55,761	(55,761)	-	-	-	-	-
Roads General	2,180,437	(180,437)	(507,500)	1,492,500	-	1,492,500	1,492,500
Roxy Theatre	102,345	(102,345)	-	-	-	-	-
Stadium	12,064	(12,064)	-	-	-	-	-
Land Development	405,767	394,233	-	800,000	-	800,000	800,000
Insurance	41,374	(41,374)	-	-	-	-	-
Workers Compensation	336,487	(171,487)	-	165,000	-	165,000	165,000
Renewable Energy Efficiencies	270,000	(150,000)	-	120,000	-	120,000	120,000
Golf Club Committee Donations	-	-	-	-	-	-	-
Aerodrome	315,368	(115,368)	-	200,000	-	200,000	200,000
Swimming Pool	723,751	226,249	(896,000)	54,000	-	54,000	54,000
Sportsgrounds Improvements	405,147	(105,147)	-	300,000	-	300,000	300,000
Valuation Reserve	80,000	(80,000)	-	-	-	-	-
Election Reserve	50,000	(50,000)	-	-	-	-	-
Childcare Centre	31,105	168,895	-	200,000	-	200,000	200,000
Facade Painting Reserve	10,000	44,329	(54,329)	-	54,329	54,329	54,329
Loan Repayment	100,000	(100,000)	-	-	-	-	-
Landfill Remediation	170,000	(170,000)	-	-	-	-	-
Cemetery Expansion	300,000	(300,000)	-	-	-	-	-
Leeton Museum & Art Gallery (WCIC)	349,294	(49,294)	-	300,000	-	300,000	300,000
Total Internally Restricted	14,645,579	(3,229,296)	(2,387,216)	9,029,067	(145,671)	8,883,396	8,883,396
Total Restricted	34,250,672	10,792,164	(6,913,539)	38,129,287	(145,671)	37,983,614	42,483,303
Unrestricted	533,798	(10,792,164)	(904,061)	1,034,905		1,034,905	4,943,762
Total Restricted & Unrestricted Cash & Investments	34,784,470	-	(7,817,600)	39,144,192	(145,671)	39,018,521	47,427,065
Cash & Investments							
Cash floats	4,070	-		3,950		3,950	3,950
Cash floats LELC	400	-		400		400	400
Cash at Bank			(904,061)	116,580		116,580	1,775,738
Cash at Bank LELC				541,212		541,212	507,478
* Investments & Deposits at Call	34,780,000		(6,913,539)	38,502,051	(145,671)	38,356,380	45,339,498
	34,784,470	-	(7,817,600)	39,144,192	(145,671)	39,018,521	47,427,065

* YTD Investments & Deposits at Call as per the December 2021 Investments Report

This reduction of \$97K in Unrestricted Cash relates to the Gogelderie Weir activities.

This document forms part of Leeton Shire Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRs.

**Leeton Shire Council
 July to December , 2021 Quarterly Budget Review
 Contracts**

Contract No	Contractor	Contract detail & purpose	Contract value (excl GST)	Commenced	Duration of contract	Budgeted (Y/N)
	Jason Mimmo	Professional Golf Services	Variable amount	27/09/2021	3 Years	Y
	Univerus Software Pty Ltd	Asset Management Software Implementation	Estimated amount of \$125,787.33	30/09/2021	3 Years	Y
	Downer EDI Works Pty Ltd	Pricing commitment by potential supplier for the provision of bitumen, emulsions asphaltic materials and services.	\$1,200,000 The above is the estimated value for a two year period.	1/07/2021	30/06/2023	Y
LSC2021-139	JAS and NIC Enterprises	Gogeldrie Weir Caretaker services	\$50,000 per annum plus variables amount	23/12/2021	30/06/2024	Y
	Open Cities	Software as a service (website)	\$15,000 set up and \$30,000 per annum	3/11/2021	3 Years	Y

This document forms part of Leeton Shire Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRS.

**Leeton Shire Council
 July to December , 2021 Quarterly Budget Review
 Consultancy & Legal Costs**

Company	Details	Expenditure YTD	Budgeted Y/N
Consultancies			
Noel Thompson Architecture	Heritage Advice	\$ 10,600	Y
Pacesetter Services	Water Billing Consulting	\$ 3,200	Y
Veritech Corporation Pty Lt	Consultation - configuration of Scada	\$ 948	Y
Local Government NSW	Consulting for HR Matters	\$ 239	Y
Micromex Research	Community Survey 2020	\$ 27,700	Y
Miktysh	Records Management Consultant	\$ 10,000	Y
Common Thread Consulting Pty	Asset & financial analysis - toward long term strategies	\$ 33,506	Y
Currajong Pty Ltd	Leeton Aquatic Centre Consultant	\$ 30,718	Y
Currajong Pty Ltd	Leeton DCP Issue Paper	\$ 16,600	Y
Talis	Leeton Waste Management Strategy	\$ 1,000	Y
Facility Design Group	Leeton Swimming Pool Superintendent	\$ 26,000	Y
BRT Consulting Pty Ltd	Building Services Consultant - Roxy Theatre Redevelopment	\$ 7,000	Y
Settling Line Theatre Consulting	Roxy Redevelopment - Theatre Consultant	\$ 24,000	Y
Donald Cant Watts Corke	Roxy Theatre Redevelopment Superintendent	\$ 38,204	Y
DP8 Engineering Pty Ltd	Trade Waste Consulting	\$ 22,500	Y
Public Works Advisory	Integrated Water Cycle Management Plan	\$ 8,624	Y
Legal Expenses			
General		\$ 103,727	Y
Planning		\$ 539	Y
Debt recovery		\$ -	Y

This document forms part of Leeton Shire Council's Quarterly Budget Review Statement for the quarter ended 31/12/2021 and should be read in conjunction with other documents in the QBRs.

**Leeton Shire Council
 July to December , 2021 Quarterly Budget Review
 Water Trading & Bad Debts**

Details	Original Budget	Cost of Sales YTD	Income YTD	Revised Budget
Trade Water Sales				
Sale of Investment Water	\$ 300,000	\$ 3,705	\$ 113,500	\$ 300,000
Sale of Town Water	\$ 120,000	\$ 1,359	\$ 35,500	\$ 120,000
Total	\$ 420,000	\$ 5,064	\$ 149,000	\$ 420,000
Bad Debts Written Off Year to Date				
General	\$ 2,850	Nil	Nil	\$ 2,850

Budget Review Statement for the quarter ended 31/12/2021
 and should be read in conjunction with other documents in

ITEM 8.11 INVESTMENTS REPORT FOR DECEMBER 2021

RECORD NUMBER	22/27
RELATED FILE NUMBER	EF21/312
AUTHOR/S	Accountant
APPROVER/S	Manager Finance Group Manager Corporate

SUMMARY/PURPOSE

This report provides details of the performance of Council's investment portfolio for the period ending 31 December 2021.

RECOMMENDATION

THAT Council notes the information contained in the Investments Report for December 2021.

REPORT

(a) Background

This report is required to be prepared on a monthly basis and presented to the next available Ordinary Council Meeting in accordance with Clause 212 of the Local Government (General) Regulation 2021.

(b) Discussion

As at 31 December 2021 Leeton Shire Council has \$45,339,498 invested in Approved Deposit Institutions (ADIs) of which \$13,129,734 (28.96%) is invested with local bank branches.

Attached to this report is a Statement of Bank Reconciliation (**Attachment 1**) and a Summary of Investments (**Attachment 2**) as at 31 December 2021.

The Statement of Bank Reconciliation reconciles the Bank Statement balances to the General Ledger at 31 December 2021 by taking into account unrepresented cheques, unrepresented deposits, and unrepresented debits.

The Summary of Investments details all the investments held by Leeton Shire Council as at 31 December 2021.

The table below details the monthly movements of investments for December 2021

Opening Balance as at 30 November 2021	\$ 44,835,435
Less:	
Maturities (3)	\$ 3,000,000
Transfer to CBA Current Account	
Subtotal	\$ 41,835,435
Plus:	
Roll-overs (1)	\$ 3,000,000
New Investments (3)	\$ 500,000
CBA Business Online Saver (BOS) movements	\$ 216
AMP Business Saver Account	\$
AMP 31 Day Notice Account	\$ 2,825
Macquarie Cash Management Accelerator Account	\$ 1,022
Closing balance as at 31 December 2021	\$ \$45,339,498

The following table details the break-up of investments according to the restrictions which are placed on them. As reported in December QBRS (subject to daily movements)

Total Investments	\$ 45,339,498
Less restrictions	
Water Supply (Excl. Unfinished Works)	\$ 17,386,643
Sewerage Services (Excl. Unfinished Works)	\$ 9,688,367
Domestic Waste Management	\$ 4,631,088
*Other external restrictions	\$ 2,093,809
External Restrictions (Excl. Unfinished Works) - Sub Total	\$ 33,799,907
Internal restrictions	\$ 8,883,396
Total restrictions	\$ 42,683,303
Operating Capital	\$ 2,656,195

*Includes - Unspent Grants Restrictions, Stormwater Levy Restriction, Deposits, Retentions and Bonds

Externally restricted funds can only be used for the purposes for which they were raised. These include water, sewer, domestic waste operations and unexpended specific purpose grants.

Internally restricted funds are set aside through Council resolution for specific purposes such as plant replacement, infrastructure renewal or funded provisions. Internal restrictions are considered as part of the Budget adoption or the Quarterly Budget Review process.

Operating Capital is used to provide working capital for Council to fund short-term operations and fluctuations in payables and receivables.

Water Investments Summary

Total Water Licenses currently held are 5,626 ML. The transferable licenses had a valuation by Breed & Hutchinson as at 30 June 2021 of \$ 8,315,900 (2019/20 valuation \$8.4M). For the 2021/22 year there is 100% allocation for both high security and general security water. Council has undertaken temporary trade of water to date of 1,850 ML for \$143,936 (net of sale brokerage fees). This equates to a ROI of 1.73%.

Water Entitlements	Allocation 1/11/2021	Allocation (ML)	Sold (ML)	Estimate Available for Sale (ML)
High Security	100%	971	971	0
General Security	100%	558	558	0
Town Water	100%	4,097	71	1,183
Total		5,626	1,600	1,183 *

**Under a Wet Year scenario Council estimates that it requires 2,343 ML of Town Water for the period to June 2022. Council resolution 16/009 requires a buffer of 500 ML above estimated usage. Accordingly, Council can sell a further 1,183 ML of Town Water (i.e. 5,626 – 1,600 – 2,343 -500 = 1,183 ML)*

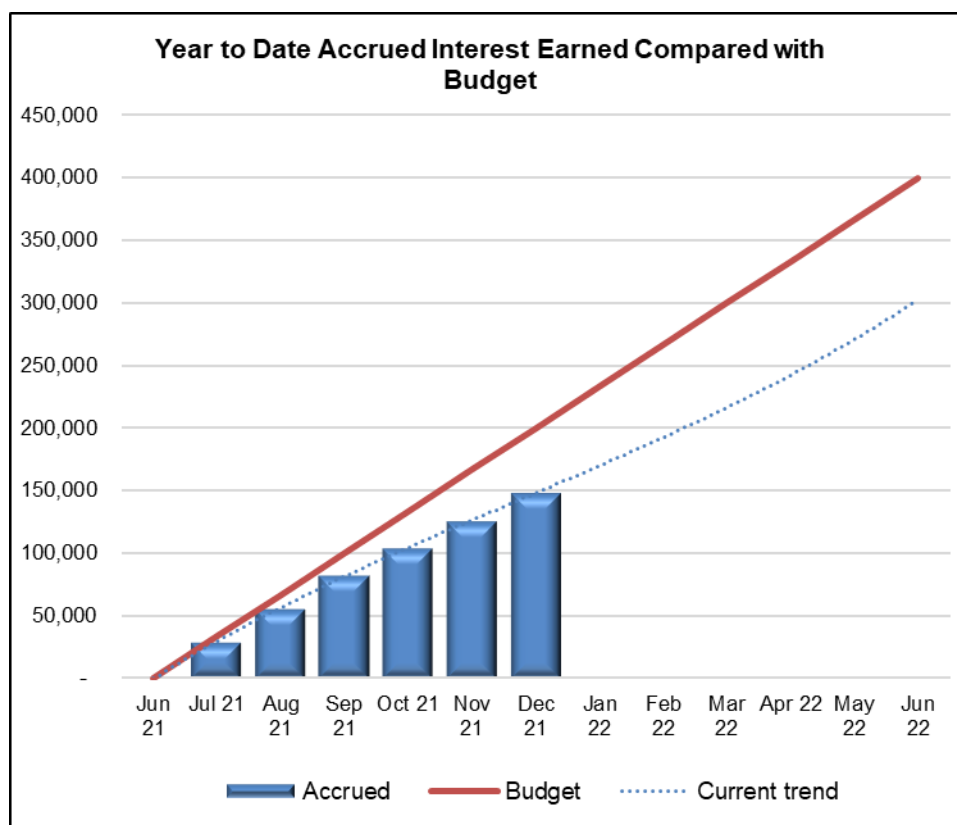
IMPLICATIONS TO BE ADDRESSED

(a) Financial

The annualised rate of return across the portfolio is 0.69% for December 2021. The budgeted percentage for the 2021/22 Financial Year equates to 1.30%.

The actual \$21,417 in interest accrued for December 2021 is lower than the original budgeted amount of \$33,333 by \$11,916.

The following graph compares year-to-date interest with the original budgeted interest for the period. This shows that Council's actual investment income has been lower than the original budget as at 31 December 2021. However investment returns have improved and earnings predictions are converging closer to budget. Management will continue to monitor interest and may seek a budget adjustment if returns remain this low.



The consolidated actual investment income from 1 July 2021 to 31 December 2021 compared to the original budgeted annual investment interest from 1 July 2021 to 31 December 2021 is detailed below.

Actual versus budgeted interest	
Actual Interest Earned from 1 July 2021 to 31 December 2021	\$148,485
Original Budgeted Interest – 1 July 2021 to 31 December 2021	\$200,000
Variance – Negative	<u>-\$51,515</u>

The following tables provide information on investment rates this year compared to last year, as well as a comparison of investment balances from this year to last year.

Performance Measures	Year to Date	Last Year (Dec)
Portfolio Average Interest Rate (year to date)	0.73%	1.57%
Investment Balances	Year to Date	Last Year
Opening Balance as at 1 Dec	\$44,835,435	\$42,897,067
Current Balance as at 31 Dec	\$45,339,498	\$41,399,645

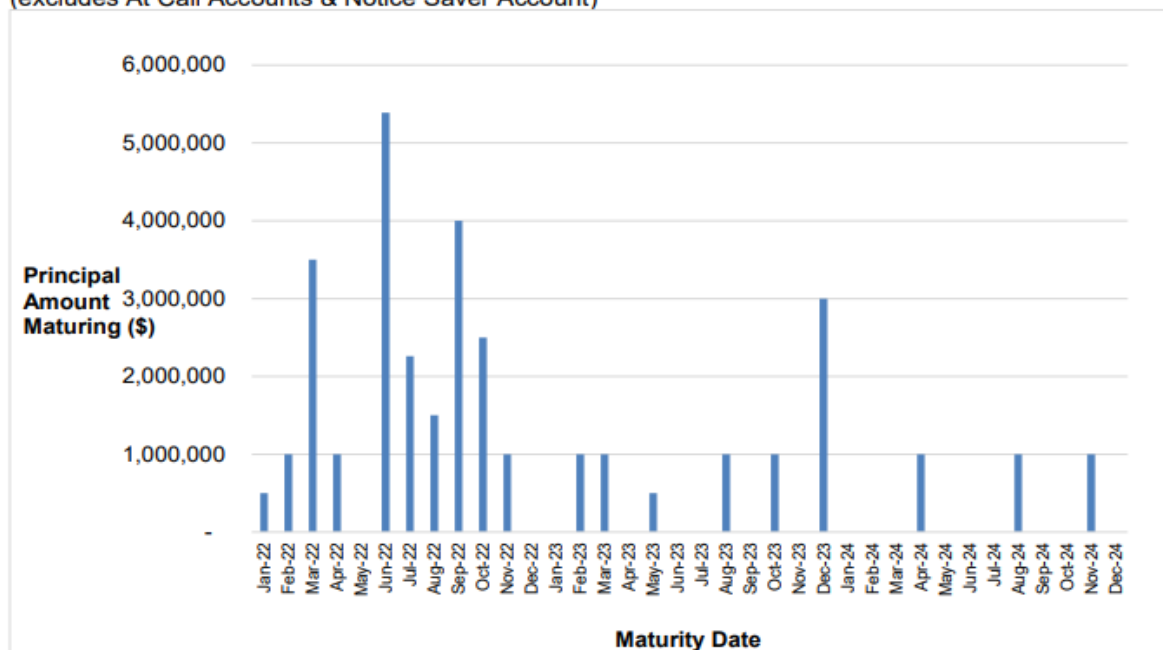
(b) Council's Portfolio Compliance

Investment Maturity Profile

The portfolio remains lightly diversified from a maturity perspective with deposits maturing out to 3 years. The graph below shows when Council's current investments mature and the related values.

Portfolio Cash Flows

(excludes At Call Accounts & Notice Saver Account)



Financial Asset Allocation

The majority of the portfolio is directed to Fixed-Term Deposits (62.86%), followed by the cash at call accounts with the Commonwealth Bank of Australia, AMP Bank and Macquarie Bank (26.88%). Floating Rate Notes are 8.05% of the portfolio, and 2.21% is held in Bonds.

Counterparty

At 31 December 2021, Council did not have an overweight position to any single Authorised Deposit Taking Institution. The portfolio is well-diversified across the entire credit spectrum, including the unrated Authorised Deposit Taking Institution.

Credit Quality

The portfolio remains well-diversified from a credit ratings perspective, with the portfolio spread across the entire credit spectrum.

All aggregate ratings categories are within the Investment Policy limits.

The following table details the credit rating of each of the categories in which Council has money invested. All investments are compliant with Council's Investment Policy.

Compliant	Long Term Rating Range	Invested (\$)	Invested %	Maximum Policy Holding(%)	Available (\$)
Yes	AA Category	\$12,139,926	26.76%	100.00%	\$33,222,001
Yes	A Category	\$3,009,365	6.63%	100.00%	\$42,352,562
Yes	BBB Category	\$30,212,636	66.60%	100.00%	\$15,149,291
Yes	Unrated ADI's	\$0	0%	40.00%	\$18,144,771
		*\$45,361,927	100.00%		

**Note: Valuations of Council's senior Floating Rate Notes on the Imperium Markets platform are marked-to-market and priced on a daily basis from an independent third-party provider. Council has recorded its FRNs internally at the purchase price or face value. As such, the total portfolio's balance is likely to differ as at the reporting date.*

(c) Legislative/Statutory

All funds are invested in accordance with Section 625 of the Local Government Act 1993 and the Ministerial Investment Order.

CONSULTATION

(a) External

Council's investment advisors are Amicus Advisory and Imperium Markets. Both investment advisors were contacted by staff for advice during the month of December 2021.

(b) Internal

No additional internal consultation was undertaken.

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot – 20b is to Strive to deliver the aspirations of the community through sound financial and asset management – Maintain Council's financial sustainability through maximising investment returns.

ATTACHMENTS

1 [↓](#) Bank Reconciliation December 2021

2 [↓](#) Investment Listing December 2021

MONTH END BANK RECONCILIATION REPORT

Prepared by the Accountant

INTRODUCTION

The purpose of this report is to inform Council of its position in respect of bank balances.

BACKGROUND

This report is prepared monthly and presents movements in the Council's bank account.

BANK RECONCILIATION STATEMENT

as at 31 December 2021

BALANCE AS PER GENERAL LEDGER

Opening Balance:	1/12/2021	\$	3,690,465.28
December Movements:		-\$	2,266,934.47
Closing Balance:	31/12/2021	\$	1,423,530.81
Less Unprocessed Bank Statement Transactions:		-\$	20,884.23
Total:		\$	1,402,646.58

BALANCE AS PER BANK STATEMENTS

	\$	1,757,878.05
Less Unpresented Cheques	-\$	4,508.00
Less Unpresented Debits	-\$	350,723.47
Plus Unpresented Deposits		
Total	\$	1,402,646.58


 Responsible Accounting Officer
 6 January 2021

Leeton Shire Council

Summary of Term Investments as at: 31/12/2021

BBSW 90: 0.07% Average Yield: 0.69%

Inv No	Financial Institution/Broker	Investment	Note	Ref No	Investment Date	Investment Term (months)	Remaining Term (months)	Principal	Yield %	Maturity	Type
10-00	Commonwealth Bank L	CBA Business Online Saver - Cash at Call (Cash flow account)		10206481	12/10/09	148	1	3,129,733.84	0.10%	11/02/22	DAC
20-00	AMP Bank	AMP Business Saver Account - Cash at Call		437864762	10/07/20	19	1	884.04	0.60%	11/02/22	DAC
21-00	AMP Bank	AMP 31 Day Notice Account		971165956	17/07/20	18	1	6,049,515.72	0.65%	11/02/22	DAC
22-00	Macquarie Bank	Macquarie Cash Management Accelerator Account		940367790	07/11/20	15	1	3,009,364.82	0.40%	11/02/22	DAC
20-04	National Aust Bank	Member Equity Bank		AU3FN0048	18/07/19	36	6	650,000.00	1.00%	18/07/22	FRN
20-11	ANZ Bank	ANZ Bank		AU3FN0049	29/08/19	60	31	1,000,000.00	0.82%	29/08/24	FRN
20-31	National Aust Bank	RACQ Bank		AU3FN0053	24/02/20	36	13	1,000,000.00	0.98%	24/02/23	FRN
20-35	Lamar Capital	Auswide Bank		AU3FN0053	17/03/20	35	14	1,000,000.00	1.12%	17/03/23	FRN
21-10	Northern Territory	Treas Territory Bond		AA-109-3B	14/09/20	38	23	1,000,000.00	1.25%	15/12/23	Bond
21-12	Beyond Bank Leeton	Beyond Bank Leeton		123075182	28/10/20	23	9	1,000,000.00	0.95%	28/10/22	LTD
21-14	AMP Bank	AMP Bank		TD14238487	14/12/20	17	5	890,000.00	0.95%	14/06/22	LTD
21-16	AMP Bank	AMP Bank		TD03847931	27/01/21	17	6	610,000.00	0.95%	27/07/22	LTD
21-17	AMP Bank	AMP Bank		TD52801630	08/02/21	17	7	500,000.00	0.95%	08/08/22	LTD
21-22	Beyond Bank Leeton	Beyond Bank Leeton		123087796	21/03/21	12	2	1,000,000.00	0.60%	21/03/22	LTD
21-24	Beyond Bank Leeton	Beyond Bank Leeton		174687370	28/03/21	12	2	500,000.00	0.60%	28/03/22	LTD
21-25	AMP Bank	AMP Bank		TD86556078	06/04/21	18	9	500,000.00	0.50%	06/10/22	LTD
21-26	Australian Military Bank	Australian Military Bank			13/04/21	36	27	1,000,000.00	0.76%	15/04/24	LTD
21-28	Beyond Bank Leeton	Beyond Bank Leeton		123086240	08/06/21	12	5	500,000.00	0.60%	08/06/22	LTD
21-29	Beyond Bank Leeton	Beyond Bank Leeton		123074677	20/06/21	12	5	1,000,000.00	0.60%	20/06/22	LTD
21-30	Members Equity Bank	Member Equity Bank		293470	23/06/21	12	5	1,000,000.00	0.50%	23/06/22	LTD
21-31	Beyond Bank Leeton	Beyond Bank Leeton		123080760	23/06/21	12	5	1,000,000.00	0.60%	23/06/22	LTD
21-32	Members Equity Bank	Member Equity Bank		294089	28/06/21	12	5	1,000,000.00	0.50%	28/06/22	LTD
22-01	National Aust Bank	National Aust Bank		71-610-6193	06/07/21	6	0	500,000.00	0.28%	06/01/22	LTD
22-02	Commonwealth Bank L	Commonwealth Bank		CDA383447	09/07/21	11	6	1,000,000.00	0.41%	08/07/22	LTD
22-03	Commonwealth Bank L	Commonwealth Bank		CDA383447	09/07/21	6	1	500,000.00	0.35%	04/02/22	LTD
22-04	AMP Bank	AMP Bank		TD13745815	16/08/21	12	7	1,000,000.00	0.95%	16/08/22	LTD
22-05	Bank of Queensland	Bank of Queensland		416589	23/08/21	6	1	500,000.00	0.39%	23/02/22	LTD
22-06	National Aust Bank	National Aust Bank		10762105	25/08/21	24	19	1,000,000.00	0.65%	25/08/23	LTD

Leeton Shire Council

Summary of Term Investments as at: 31/12/2021		BBSW 90:	0.07%	Average Yield:	0.69%				
22-07	Beyond Bank Leeton	123086194	06/09/21	12	8	1,000,000.00	0.60%	06/09/22	LTD
22-08	Beyond Bank Leeton	123092627	11/09/21	12	8	1,000,000.00	0.60%	11/09/22	LTD
22-09	Beyond Bank Leeton	123096360	16/09/21	5	2	1,000,000.00	0.50%	16/03/22	LTD
22-10	Elders Narrandera	302310859	22/09/21	5	2	1,000,000.00	0.35%	21/03/22	LTD
22-11	National Aust Bank	97-327-3005	27/09/21	12	8	1,000,000.00	0.35%	27/09/22	LTD
22-12	Beyond Bank Leeton	123087332	28/09/21	12	8	1,000,000.00	0.60%	28/09/22	LTD
22-13	Auswide Bank	5652782.16.	05/10/21	12	9	1,000,000.00	0.50%	05/10/22	LTD
22-14	Beyond Bank Leeton	123074883	07/10/21	5	3	1,000,000.00	0.50%	07/04/22	LTD
22-15	Westpac Bank	9514165	21/10/21	24	21	1,000,000.00	0.87%	23/10/23	LTD
22-16	AMP Bank	TD60160792	29/10/21	18	15	500,000.00	1.20%	01/05/23	LTD
22-17	Westpac Bank	9563400	11/11/21	36	34	1,000,000.00	1.60%	11/11/24	LTD
22-18	AMP Bank	TD02163069	01/12/21	10	9	1,000,000.00	1.20%	27/10/22	LTD
22-19	Westpac Bank	9620456	09/12/21	24	23	1,000,000.00	1.21%	11/12/23	LTD
22-20	AMP Bank	TD34064791	21/12/21	24	23	1,000,000.00	1.55%	21/12/23	LTD
				Total Investments:					
						\$ 45,339,498.42			

Leeton Shire Council

Summary of Term Investments as at: 31/12/2021

BBSW 90: 0.07% Average Yield: 0.69%

Investment by Type		
Investment	Amount	%
Bank of Queensland	500,000	1.1%
Rural Bank	1,000,000	2.2%
Beyond Bank Leeton	10,000,000	22.1%
Member Equity Bank	2,650,000	5.8%
AMP Bank	6,000,000	13.2%
Auswide Bank	2,000,000	4.4%
National Aust Bank	2,500,000	5.5%
Australian Military Bank	1,000,000	2.2%
ANZ Bank	1,000,000	2.2%
RACQ Bank	1,000,000	2.2%
Territory Bond	1,000,000	2.2%
CBBA Business Online Sa	3,129,734	6.9%
AMP Business Saver Acc	884	0.0%
AMP 31 Day Notice Acc	6,049,516	13.3%
Macquarie Cash Manag	3,009,365	6.6%
Commonwealth Bank	1,500,000	3.3%
Westpac Bank	3,000,000	6.6%
TOTAL	45,339,498	100.0%
Local	13,129,734	28.96%
Non Local	32,209,765	71.04%

Investments by Age		
Age	Amount	%
1. Less than 30 Days	12,689,498	28%
2. 30 to 180 Days	10,890,000	24%
3. 180 to 365 Days	11,260,000	25%
4. 1 to 3 years	10,500,000	23%
TOTAL	45,339,498	100%

Investments by Age and Type		
Sum of Principal	Type	Total
Current	DAC	12,189,498
	LTD	22,000,000
	FRN	650,000
Current Total		34,839,498
Non Current	LTD	6,500,000
	FRN	3,000,000
	Bond	1,000,000
Non Current Total		10,500,000
Grand Total		45,339,498

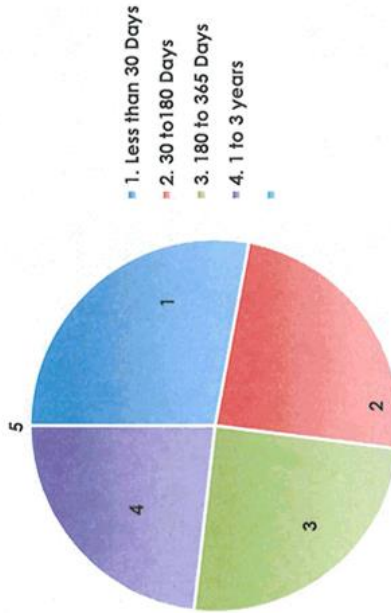
Index:

DAC	Deposit at Call
FRN	Floating Rate Note
LTD	Long Term Deposit
STD	Short Term Deposit
Bond	Long Term Bond

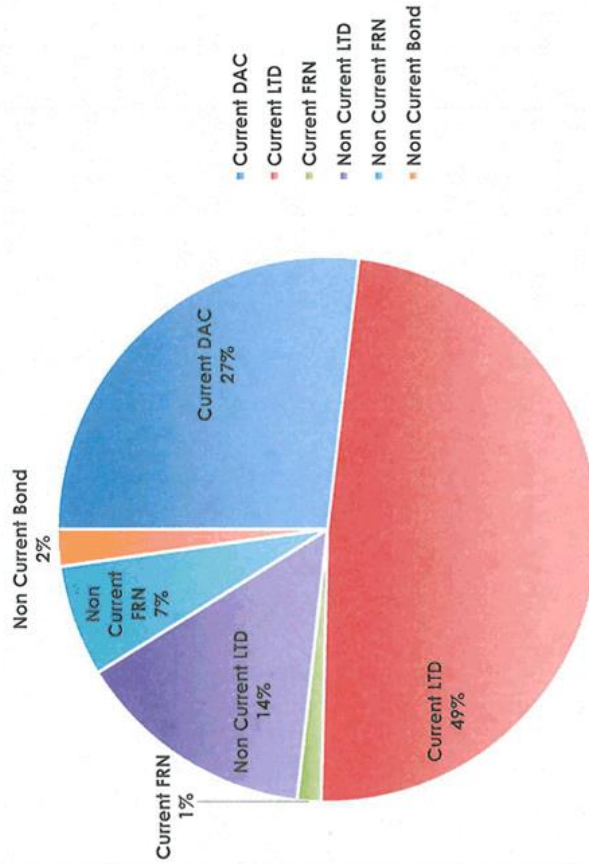
Leeton Shire Council

Summary of Term Investments as at: **31/12/2021** BBSW 90: **0.07%** Average Yield: **0.69%**

Investments by Age



Investments by Type and Term



Explanatory notes:
 All investments noted

 Responsible Accounting Officer
 11 February, 2022

ITEM 8.12 INVESTMENTS REPORT FOR JANUARY 2022

RECORD NUMBER	22/21
RELATED FILE NUMBER	EF21/312
AUTHOR/S	Accountant
APPROVER/S	Manager Finance Group Manager Corporate

SUMMARY/PURPOSE

This report provides details of the performance of Council's investment portfolio for the period ending 31 January 2022.

RECOMMENDATION

THAT Council notes the information contained in the Investments Report for January 2022.

REPORT

(a) Background

This report is required to be prepared on a monthly basis and presented to the next available Ordinary Council Meeting in accordance with Clause 212 of the Local Government (General) Regulation 2021.

(b) Discussion

As at 31 January 2022 Leeton Shire Council has \$44,343,603 invested in Approved Deposit Institutions (ADIs) of which \$12,129,990 (27.35%) is invested with local bank branches.

Attached to this report is a Statement of Bank Reconciliation (**Attachment 1**) and a Summary of Investments (**Attachment 2**) as at 31 January 2022.

The Statement of Bank Reconciliation reconciles the Bank Statement balances to the General Ledger at 31 January 2022 by taking into account unrepresented cheques, unrepresented deposits, and unrepresented debits.

The Summary of Investments details all the investments held by Leeton Shire Council as at 31 January 2022.

The table below details the monthly movements of investments for January 2022.

Opening Balance as at 31 December 2021	\$ 45,339,498
Less:	
Maturities (4)	\$ 500,000
Transfer to CBA Current Account	1,000,000
Subtotal	\$ 43,839,498
Plus:	
Roll-overs (1)	\$ 500,000
New Investments (3)	\$
CBA Business Online Saver (BOS) movements	\$ 257
AMP Business Saver Account	\$
AMP 31 Day Notice Account	\$ 2,826
Macquarie Cash Management Accelerator Account	\$ 1,022
Closing balance as at 31 January 2022	\$ \$44,343,603

The following table details the break-up of investments according to the restrictions which are placed on them. As reported in the December QBRs (subject to daily movements).

Total Investments	\$ 44,343,603
Less restrictions	
Water Supply (Excl. Unfinished Works)	\$ 17,386,643
Sewerage Services (Excl. Unfinished Works)	\$ 9,688,367
Domestic Waste Management	\$ 4,631,088
*Other external restrictions	\$ 2,093,809
External Restrictions (Excl. Unfinished Works) - Sub Total	\$ 33,799,907
Internal restrictions	\$ 8,883,396
Total restrictions	\$ 42,683,303
Operating Capital	\$ 1,660,300

**Includes - Unspent Grants Restrictions, Stormwater Levy Restriction, Deposits, Retentions and Bonds*

Externally restricted funds can only be used for the purposes for which they were raised. These include water, sewer, domestic waste operations and unexpended specific purpose grants.

Internally restricted funds are set aside through Council resolution for specific purposes such as plant replacement, infrastructure renewal or funded provisions. Internal restrictions are considered as part of the Budget adoption or the Quarterly Budget Review process.

Operating Capital is used to provide working capital for Council to fund short-term operations and fluctuations in payables and receivables.

Water Investments Summary

Total Water Licenses currently held are 5,626 ML. The transferable licenses had a valuation by Breed & Hutchinson as at 30 June 2021 of \$ 8,315,900 (2019/20 valuation \$8.4M). For the 2021/22 year there is 100% allocation for both high security and general security water. Council has undertaken temporary trade of water to date of 1,850 ML for \$160,804 (net of sale brokerage fees). This equates to a ROI of 1.93%.

Water Entitlements	Allocation 1/11/2021	Allocation (ML)	Sold (ML)	Estimate Available for Sale
High Security	100%	971	971	0
General Security	100%	558	558	0
Town Water	100%	4,097	321	933
Total		5,626	1,850	933 *

**Under a Wet Year scenario Council estimates that it requires 2,343 ML of Town Water for the period to June 2022. Council resolution 16/009 requires a buffer of 500 ML above estimated usage. Accordingly, Council can sell a further 933 ML of Town Water (i.e. 5,626 – 1,850 – 2,343 -500 = 933 ML)*

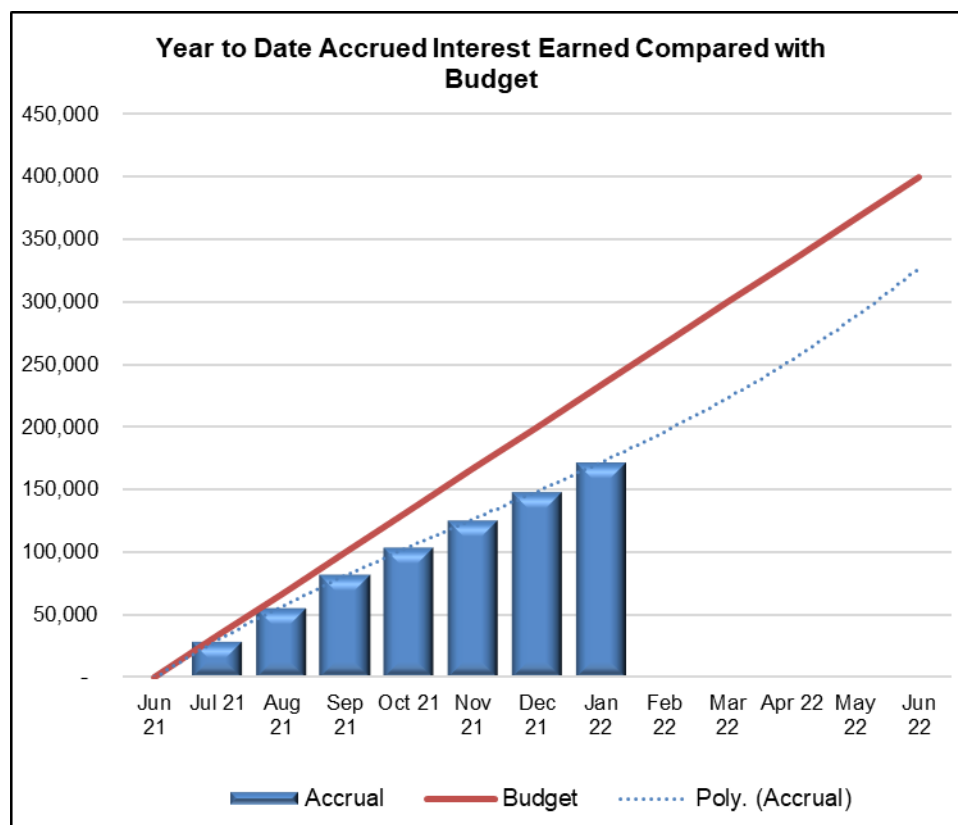
IMPLICATIONS TO BE ADDRESSED

(a) Financial

The annualised rate of return across the portfolio is 0.70% for January 2022. The budgeted percentage for the 2021/22 Financial Year equates to 1.30%.

The actual \$23,361 in interest accrued for January 2022 is lower than the original budgeted amount of \$33,333 by \$9,972.

The following graph compares year-to-date interest with the original budgeted interest for the period. This shows that Council's actual investment income has been lower than the original budget as at 31 January 2022. However investment returns have improved and earnings predictions are converging closer to budget. Management will continue to monitor interest and may seek a budget adjustment if returns remain this low.



The consolidated actual investment income from 1 July 2021 to 31 January 2022 compared to the original budgeted annual investment interest from 1 July 2021 to 31 January 2022 is detailed below.

Actual versus budgeted interest	
Actual Interest Earned from 1 July 2021 to 31 January 2022	\$171,846
Original Budgeted Interest – 1 July 2021 to 31 January 2022	\$233,333
Variance – Negative	<u>-\$61,487</u>

The following tables provide information on investment rates this year compared to last year, as well as a comparison of investment balances from this year to last year.

Performance Measures	Year to Date	Last Year (Jan)
Portfolio Average Interest Rate (year to date)	0.84%	1.75%
Investment Balances	Year to Date	Last Year
Opening Balance as at 1 Jan	\$45,339,498	\$41,399,645
Current Balance as at 31 Jan	\$44,343,603	\$39,901,829

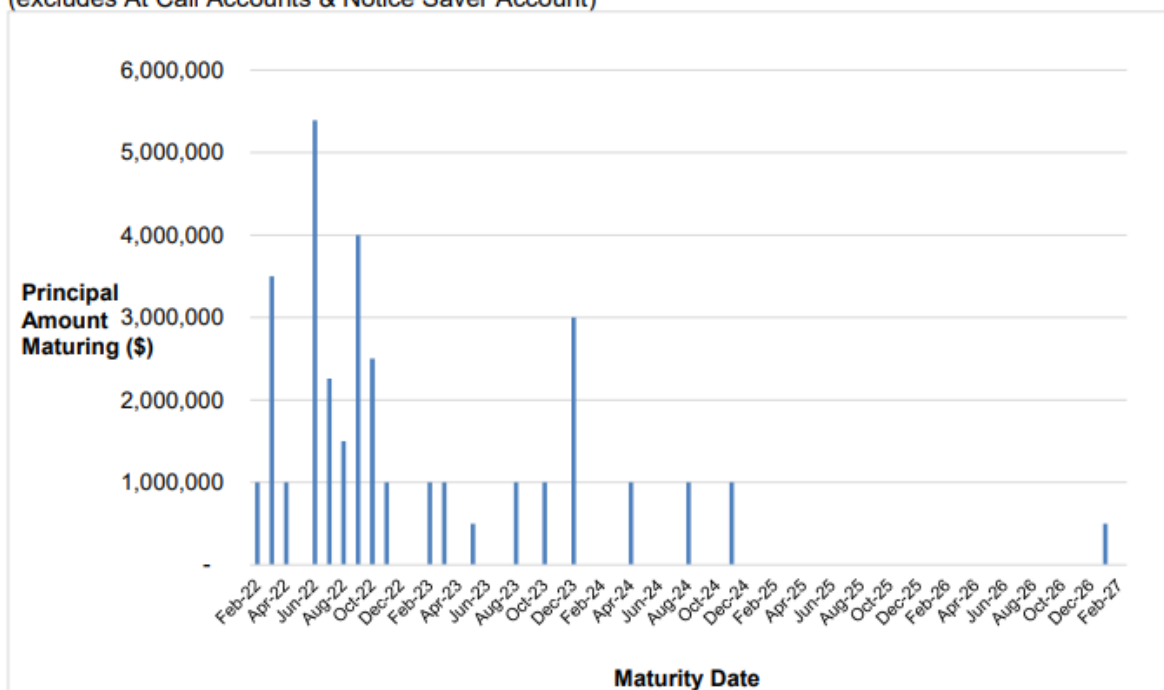
(b) Council Portfolio Compliance

Investment Maturing Profile

The portfolio remains lightly diversified from a maturity perspective with deposits maturing out to 5 years. The graph below shows when Council's current investments mature and the related values.

Portfolio Cash Flows

(excludes At Call Accounts & Notice Saver Account)



Financial Asset Allocation

The majority of the portfolio is directed to Fixed-Term Deposits (63.14%), followed by the cash at call accounts with the Commonwealth Bank of Australia, AMP Bank and Macquarie Bank (25.24%). Floating Rate Notes are 9.36% of the portfolio, and 2.26% is held in Bonds.

Counterparty

At 31 January 2022, Council did not have an overweight position to any single Authorised Deposit Taking Institution. The portfolio is well-diversified across the entire credit spectrum, including the unrated Authorised Deposit Taking Institution.

Credit Quality

The portfolio remains well-diversified from a credit ratings perspective, with the portfolio spread across the entire credit spectrum.

All aggregate ratings categories are within the Investment Policy limits.

The following table details the credit rating of each of the categories in which Council has money invested. All investments are compliant with Council's Investment Policy.

Compliant	Long Term Rating Range	Invested (\$)	Invested %	Maximum Policy Holding(%)	Available (\$)
Yes	AA Category	\$11,139,782	25.11%	100.00%	\$33,224,270
Yes	A Category	\$3,010,387	6.79%	100.00%	\$41,353,665
Yes	BBB Category	\$30,213,883	68.10%	100.00%	\$14,150,169
Yes	Unrated ADI's	\$0	0%	40.00%	\$17,745,621
		*\$44,364,052	100.00%		

**Note: Valuations of Council's senior Floating Rate Notes on the Imperium Markets platform are marked-to-market and priced on a daily basis from an independent third-party provider. Council has recorded its FRNs internally at the purchase price or face value. As such, the total portfolio's balance is likely to differ as at the reporting date.*

(c) Legislative/Statutory

All funds are invested in accordance with Section 625 of the *Local Government Act 1993* and the Ministerial Investment Order.

CONSULTATION

(a) External

Council's investment advisors are Amicus Advisory and Imperium Markets. Both investment advisors were contacted by staff for advice during the month of January 2022.

(b) Internal

No additional internal consultation was undertaken.

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot – 20b is to Strive to deliver the aspirations of the community through sound financial and asset management – Maintain Council's financial sustainability through maximising investment returns.

ATTACHMENTS

- 1 [Investments January 2022](#)
- 2 [Bank Reconciliation 31 January 2022](#)

Leeton Shire Council

Summary of Term Investments as at: 31/01/2022

BBSW 90: 0.08% Average Yield: 0.70%

Inv No	Financial Institution/Broker	Investment	Note	Ref No	Investment Date	Investment Term (months)	Remaining Term (months)	Principal	Yield %	Maturity	Type
10-00	Commonwealth Bank L	CBA Business Online Saver - Cash at Call (Cash flow account)		10206481	12/10/09	148	0	2,129,990.06	0.10%	11/02/22	DAC
20-00	AMP Bank	AMP Business Saver Account - Cash at Call		437864762	10/07/20	19	0	884.42	0.60%	11/02/22	DAC
21-00	AMP Bank	AMP 31 Day Notice Account		971165956	17/07/20	18	0	6,052,341.59	0.65%	11/02/22	DAC
22-00	Macquarie Bank	Macquarie Cash Management Accelerator Account		940367790	07/11/20	15	0	3,010,387.20	0.40%	11/02/22	DAC
20-04	National Aust Bank	Member Equity Bank		AU3FND00485	18/07/19	36	5	650,000.00	1.05%	18/07/22	FRN
20-11	ANZ Bank	ANZ Bank		AU3FND00497	29/08/19	60	30	1,000,000.00	0.82%	29/08/24	FRN
20-31	National Aust Bank	RACQ Bank		AU3FND00531	24/02/20	36	12	1,000,000.00	0.98%	24/02/23	FRN
20-35	Laminar Capital	Auswide Bank		AU3FND00535	17/03/20	35	13	1,000,000.00	1.12%	17/03/23	FRN
22-21	Commonwealth Bank L	Commonwealth Bank		AA-109-3B	14/01/22	60	59	500,000.00	0.77%	14/01/27	FRN
21-10	Northern Territory Treas.	Territory Bond		123075182	14/09/20	38	22	1,000,000.00	1.25%	15/12/23	Bond
21-12	Beyond Bank Leeton	Beyond Bank Leeton		TD14238487	28/10/20	23	8	1,000,000.00	0.95%	28/10/22	LTD
21-14	AMP Bank	AMP Bank		TD03847931	14/12/20	17	4	890,000.00	0.95%	14/06/22	LTD
21-16	AMP Bank	AMP Bank		TD52801630	27/01/21	17	5	610,000.00	0.95%	27/07/22	LTD
21-17	AMP Bank	AMP Bank		123087796	08/02/21	17	6	500,000.00	0.95%	08/08/22	LTD
21-22	Beyond Bank Leeton	Beyond Bank Leeton		174687370	21/03/21	12	1	1,000,000.00	0.60%	21/03/22	LTD
21-24	Beyond Bank Leeton	Beyond Bank Leeton		TD86556078	28/03/21	12	1	500,000.00	0.60%	28/03/22	LTD
21-25	AMP Bank	AMP Bank		123086240	06/04/21	18	8	500,000.00	0.50%	06/10/22	LTD
21-26	Australian Military Bank	Australian Military Bank		123074677	13/04/21	36	26	1,000,000.00	0.76%	15/04/24	LTD
21-28	Beyond Bank Leeton	Beyond Bank Leeton		293470	08/06/21	12	4	500,000.00	0.60%	08/06/22	LTD
21-29	Beyond Bank Leeton	Beyond Bank Leeton		123080760	20/06/21	12	4	1,000,000.00	0.60%	20/06/22	LTD
21-30	Members Equity Bank	Member Equity Bank		294089	23/06/21	12	4	1,000,000.00	0.50%	23/06/22	LTD
21-31	Beyond Bank Leeton	Beyond Bank Leeton		CDA3834471	23/06/21	12	4	1,000,000.00	0.60%	23/06/22	LTD
21-32	Members Equity Bank	Member Equity Bank		CDA3834471	28/06/21	12	4	1,000,000.00	0.50%	28/06/22	LTD
22-02	Commonwealth Bank L	Commonwealth Bank		TD13745815	09/07/21	11	5	1,000,000.00	0.41%	08/07/22	LTD
22-03	Commonwealth Bank L	Commonwealth Bank		416589	09/07/21	6	0	500,000.00	0.35%	04/02/22	LTD
22-04	AMP Bank	AMP Bank		10762105	16/08/21	12	6	1,000,000.00	0.95%	16/08/22	LTD
22-05	Bank of Queensland	Bank of Queensland			23/08/21	6	0	500,000.00	0.39%	23/02/22	LTD
22-06	National Aust Bank	National Aust Bank			25/08/21	24	18	1,000,000.00	0.65%	25/08/23	LTD

Leeton Shire Council

Summary of Term Investments as at: 31/01/2022		BBSW 90: 0.08%	Average Yield: 0.70%						
22-07	Beyond Bank Leeton	123086194	06/09/21	12	7	1,000,000.00	0.60%	06/09/22	LTD
22-08	Beyond Bank Leeton	123092627	11/09/21	12	7	1,000,000.00	0.60%	11/09/22	LTD
22-09	Beyond Bank Leeton	123096360	16/09/21	5	1	1,000,000.00	0.50%	16/03/22	LTD
22-10	Elders Narrandera	302310859	22/09/21	5	1	1,000,000.00	0.35%	21/03/22	LTD
22-11	National Aust Bank	97-327-3005	27/09/21	12	7	1,000,000.00	0.35%	27/09/22	LTD
22-12	Beyond Bank Leeton	123087332	28/09/21	12	7	1,000,000.00	0.60%	28/09/22	LTD
22-13	Auswide Bank	5652782.16.	05/10/21	12	8	1,000,000.00	0.50%	05/10/22	LTD
22-14	Beyond Bank Leeton	123074883	07/10/21	5	2	1,000,000.00	0.50%	07/04/22	LTD
22-15	Westpac Bank	9514165	21/10/21	24	20	1,000,000.00	0.87%	23/10/23	LTD
22-16	AMP Bank	TD60160792	29/10/21	18	14	500,000.00	1.20%	01/05/23	LTD
22-17	Westpac Bank	9563400	11/11/21	36	33	1,000,000.00	1.60%	11/11/24	LTD
22-18	AMP Bank	TD02163069.	01/12/21	10	8	1,000,000.00	1.20%	27/10/22	LTD
22-19	Westpac Bank	9620456	09/12/21	24	22	1,000,000.00	1.21%	11/12/23	LTD
22-20	AMP Bank	TD34064791.	21/12/21	24	22	1,000,000.00	1.55%	21/12/23	LTD

Total Investments: \$ 44,343,603.27

Leeton Shire Council

Summary of Term Investments as at: 31/01/2022

BBSW 90: 0.08% Average Yield: 0.70%

Investment by Type		
Investment	Amount	%
Bank of Queensland	500,000	1.1%
Rural Bank	1,000,000	2.3%
Beyond Bank Leeton	10,000,000	22.6%
Member Equity Bank	2,650,000	6.0%
AMP Bank	6,000,000	13.5%
Auswide Bank	2,000,000	4.5%
National Aust Bank	2,000,000	4.5%
Australian Military Bank	1,000,000	2.3%
ANZ Bank	1,000,000	2.3%
RACQ Bank	1,000,000	2.3%
Territory Bond	1,000,000	2.3%
CBA Business Online Sav	2,129,990	4.8%
AMP Business Saver Acc	884	0.0%
AMP 31 Day Notice Acc	6,052,342	13.6%
Macquarie Cash Mana	3,010,387	6.8%
Commonwealth Bank	2,000,000	4.5%
Westpac Bank	3,000,000	6.8%
TOTAL	44,343,603	100.0%
Local	12,129,990	27.35%
Non Local	32,213,613	72.65%

Investments by Age		
Age	Amount	%
1. Less than 30 Days	12,193,603	27%
2. 30 to 180 Days	12,150,000	27%
3. 180 to 365 Days	9,000,000	20%
4. 1 to 3 years	10,500,000	24%
5. 3 to 5 years	500,000	1%
TOTAL	44,343,603	100%

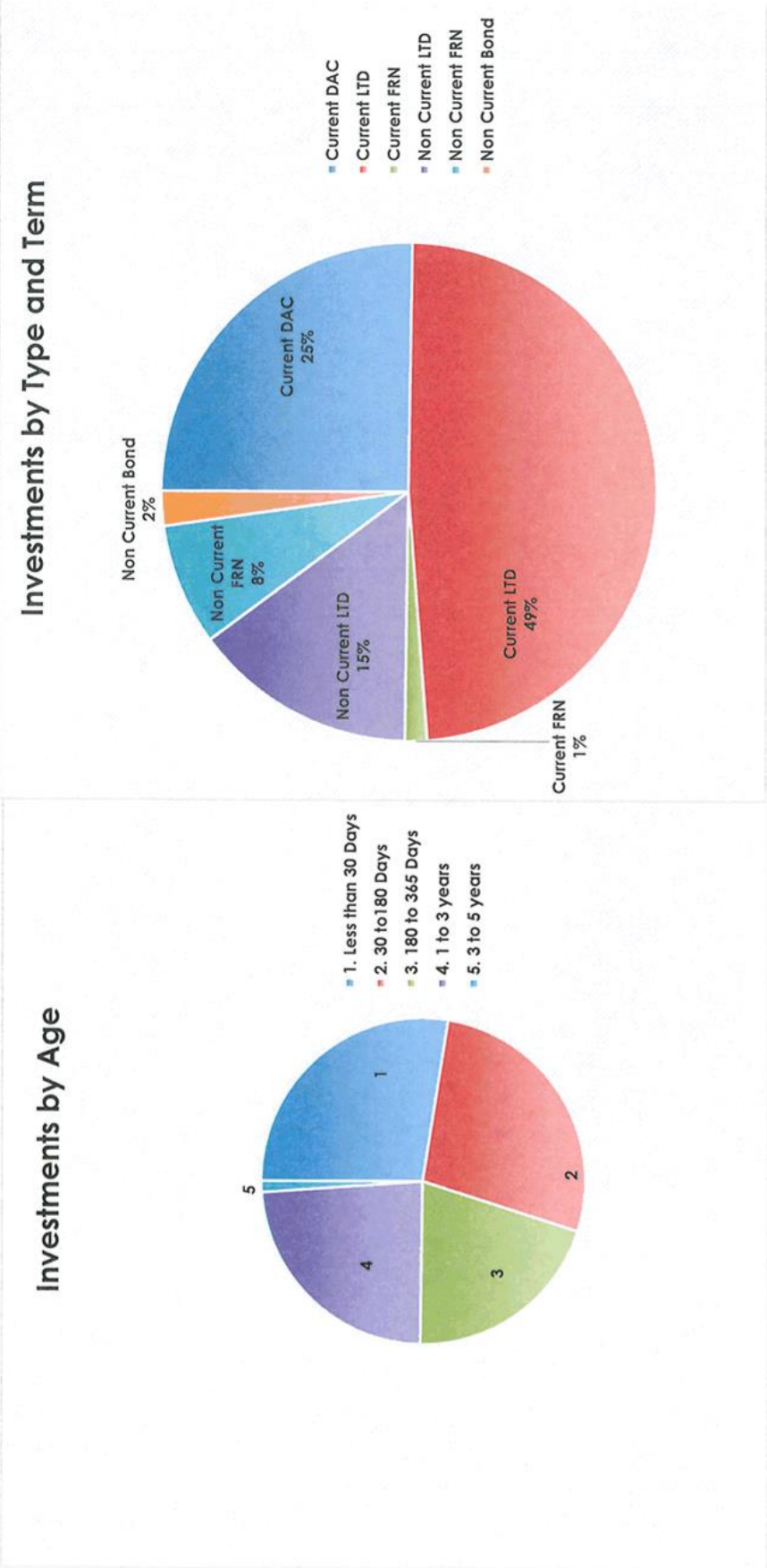
Investments by Age and Type		
Sum of Principal	Type	Total
Current	DAC	11,193,603
	LTD	21,500,000
	FRN	650,000
Current Total		33,343,603
Non Current	LTD	6,500,000
	FRN	3,500,000
	Bond	1,000,000
Non Current Total		11,000,000
Grand Total		44,343,603

Index:

DAC	Deposit at Call
FRN	Floating Rate Note
LTD	Long Term Deposit
STD	Short Term Deposit
Bond	Long Term Bond

Leeton Shire Council

Summary of Term Investments as at: **31/01/2022** BBSW 90: **0.08%** Average Yield: **0.70%**



Explanatory notes:
 All investments noted

 Responsible Accounting Officer
 11 February, 2022

MONTH END BANK RECONCILIATION REPORT

Prepared by the Accountant

INTRODUCTION

The purpose of this report is to inform Council of its position in respect of bank balances.

BACKGROUND

This report is prepared monthly and presents movements in the Council's bank account.

BANK RECONCILIATION STATEMENT

as at 31 January 2022

BALANCE AS PER GENERAL LEDGER

Opening Balance:	1/01/2022	\$	1,423,530.81
January Movements:		\$	417,160.36
Closing Balance:	31/01/2022	\$	1,840,691.17
Less Unprocessed Bank Statement Transactions:		-\$	30,218.55
Total:		\$	1,810,472.62

BALANCE AS PER BANK STATEMENTS

	\$	1,807,895.52
Less Unpresented Cheques	-\$	196.00
Less Unpresented Debits		
Plus Unpresented Deposits	\$	2,773.10
Total	\$	1,810,472.62



Responsible Accounting Officer
 7 February 2022

ITEM 8.13 RESERVE 85835 (WAIPUKARAU PARK) - DRAFT PLAN OF MANAGEMENT

RECORD NUMBER	21/507
RELATED FILE NUMBER	EF21/160
AUTHOR/S	Property Coordinator and Native Title Manager
APPROVER/S	Group Manager Corporate

SUMMARY/PURPOSE

Section 3.23(6) & (7) of the *Crown Land Management Act 2016* requires Council to adopt a Plan of Management for each reserve for which it is appointed as Crown Land Manager. Each Plan of Management must be prepared in accordance with Crown Land Guidelines.

As part of the Plan of Management approval process Council must attest that it has considered Native Title Manager advice in relation to the Draft Plan of Management and resolve to refer the Draft Plan of Management to the Department of Planning, Industry and Environment – Crown Lands for the approval of the Minister Administering the Crown Lands Management Act 2016 before putting it out for public consultation.

RECOMMENDATION

THAT Council:

1. Attests that it has considered Native Title Manager advice in relation to the Draft Plan of Management for Reserve 85835.
 2. Requests approval from the Minister Administering the *Crown Lands Management Act 2016* to approve the annexed Draft Plan of Management for Reserve 85835.
 3. Upon approval from the Minister Administering the *Crown Lands Management Act 2016* Council amends the Draft Plan of Management if required by the Minister and places it on public exhibition as per Section 38 of the *Local Government Act, 1993*.
-

REPORT

(a) Background

Under Section 3.23 of the *Crown Land Management Act 2016* Council must initially assign a category of use that they consider to be most closely related to the purpose(s) that the land is dedicated or reserved.

Council assigned the category of Park as suggested by Department of Industry Crown Lands to Reserve 85835. These categories were deemed to be the closest category to the current Reserve purpose and as such has been approved by the Minister administering the *Crown Land Management Act 2016*.

Section 3.23(7) of the *Crown Land Management Act 2016* states that Section 44 of the Local Government Act 1993 applies to the land. This means that the nature and use of the land must not be changed while the adoption of a Plan of Management for Community land is pending. This in effect means that Council is unable to properly deal with the land until a Plan of Management is adopted.

Division 3.6 of the *Crown Lands Management Act 2016* deals with the requirements that Council must meet in relation to Plans of Management and other plans for Council managed Crown land such as the preparation, community engagement, adoption, alteration and publication of Plans of Management and other Plans.

(b) Discussion

The Draft Plan of Management has been prepared by Council's Property Coordinator and Native Title Manager who has attended the required Department of Industry Crown Lands/Office of Local Government Plan of Management training. The Draft Plan of Management has been prepared using Crown Land guidelines in the format authorised by the former Department of Industry – Crown Lands and the Office of Local Government. The Draft Plan of Management has been broadly drafted to enable flexibility of the use of the Reserves by Council and the community, in particular the interface with the Pre-school and Day Care Centre.

A copy of the Draft Plan of Management is annexed hereto (Attachment 1).

APPROVAL AND COMMUNITY CONSULTATION PROCESS

Council is required to submit this Draft Plan of Management for approval to the Department of Planning Industry and Environment – Crown Lands, as the owner of the land. This approval process occurs prior to any public exhibition and community consultation.

The Department of Planning, Industry and Environment – Crown Lands will review the plan and will advise Council of any properly required provisions or revisions to be included in the Draft Plan. If revision is required, Council must then amend the plan prior to placing it on public exhibition under Section 38 of the Local Government Act 1993. Council is not required to hold a Public Hearing for the Plan of Management.

Provided that the Community consultation period does not further change the Plan of Management Council may proceed to adopt the Plan of Management.

If Community consultation alters the Plan of Management the plan must be again referred to the Native Title Manager for a report which must be considered by Council and the Plan of Management must again be referred to the Department of Planning, Industry and Environment for approval prior to Council adopting the plan.

A flowchart showing the approval and community consultation process is annexed hereto (Attachment 2).

NATIVE TITLE

Plans of Management for Crown Reserves must be compliant with the statutory requirements in relation to Native Title prescribed by both the *Crown Land Management Act 2016* and the *Local Government Act 1993*.

Council cannot adopt a Plan of Management until it has obtained written advice from the Native Title Manager that the Plan of Management complies with any applicable provisions of Commonwealth Native Title legislation.

The Department of Planning Industry and Environment – Crown Lands advise that Native Title Manager engagement and Native Title consideration should start from the beginning of drafting of the plan. Council must advise the Minister that a Native Title Report has been undertaken and noted by Council prior to approval of the plan by the Minister. Native Title has been considered in the drafting of the plan and activities that cannot be validated under the *Native Title Act 1996* have not been included within the Draft Plan.

The Department of Planning Industry and Environment will not approve a Draft Plan of Management received from a Council unless the Council attests that it has considered Council's Native Title Manager advice.

Council's Native Title Manager has considered the Draft Plan of Management and concludes that:

1. The Plan of Management authorises activities that could be considered as future acts within the meaning of Section 233 of the *Native Title Act 1993*.
2. The Plan of Management guidelines provide that those activities are only to be authorised if they are in accordance with the reserve purpose of the land.

Those activities that are consistent with the reserve purpose of the land may be validated under the future acts regime of the *Native Title Act 1993*.

A copy of the Native Title Summary Report of the Draft Plan of Management is annexed hereto (Attachment 3).

(c) Options

1. Refer the Draft Plan of Management to the Minister Administering the *Crown Lands Management Act 2016* for approval. **This is the preferred option.**
2. Defer the referral of the Draft Plan of Management pending identified changes.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

The referral of the Draft Plan of Management for approval will have no financial impact on Council.

(b) Policy

Nil

(c) Legislative/Statutory

Local Government Act 1993

Section 36(1), Plans of Management must be prepared for all community land.

The minimum requirements for a Plan of Management are set out under Section 36(3).

Section 36 (3A) specifies that Plans of Management that are specific to one area of land must also describe the condition of the land as at the adoption of the plan, describe the buildings on the land as at adoption, describe the use of the buildings and the land as at adoption and state the purposes for which the land will be allowed to be used as well as the scale and intensity of that use.

Sections 36E–36N specifies the core objectives for the management of each category of community land.

Section 38 – Public Notice of Draft Plans of Management.

Section 44 – Use of community land pending adoption of plan of management.

Local Government (General) Regulation 2005

Clause 101(2) Local Government General Regulation 2005 requires Council to have regard to the guidelines for categorisation of community land set out in Clauses 102 to 111 of that regulation.

Crown Land Management Act 2016

Division 3.6 details the requirements that Council must meet in relation to Plans of Management and other Plans.

Section 3.23 Management of Land as Community Land -requires Council to adopt a Plan of Management for any Crown reserve for which it is appointed Crown Land Manager, and that is classified as community land under the Local Government Act 1993.

Section 8.7 When advice of Native Title Manager is required.

Native Title Act 1996 (Federal)

Section 233 – Future Act

(d) Risk

If Council does not adopt a Plan of Management under the Crown Land Management Act guidelines, it cannot deal with the lands for tenure except for the issuing of a short-term licence. A Plan of Management for Reserve 85835 is critical for expansion plans for Leeton Early Learning Centre.

If a Plan of Management is not adopted, Council may lose the right to manage the lands.

CONSULTATION

(a) External

Department of Planning Industry and Environment – Crown Lands
Office of Local Government

(b) Internal

Manager Open Space and Recreation
Open Space and Recreation Coordinator
Manager Visitor Services and Local Activation
Group Manager Corporate

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 20 - A community that is always on the front foot - 20 c - Strive to deliver the aspirations of the community through sound governance practice - Prepare and implement Plans of Management (PoM) for Crown Lands properties, and user agreements for sports ovals on Crown Land".

ATTACHMENTS

- 1** [↓](#) Plan of Management Waipukurau Park Draft Final for Council Approval
- 2** [↓](#) Flowchart for Plan of Management Process
- 3** [↓](#) Native Title Manager Advice - Waipukurau Park PoM



RESERVE 85835 WAIPUKARAU PARK

PLAN OF MANAGEMENT

RESPONSIBLE OFFICER					
REVIEWED BY					
DATE ADOPTED:					
ADOPTED BY:					
RESOLUTION NO: (IF RELEVANT):					
REVIEW DUE DATE:					
REVISION NUMBER:					
PREVIOUS VERSIONS:		DESCRIPTION OF AMENDMENTS	AUTHOR/EDITOR	REVIEW/ SIGN OFF	MINUTE NO
Draft	v.1		Donna O'Bryan		

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1.0 Key Information

The Waipukarau Park Plan of Management has been prepared by Council and provides direction as to the use and management of the reserve.

The Management Plan is required in accordance with Section 3.23 of the Crown Land Management Act 2016 and Section 36 of the Local Government Act 1993.

The Plan of Management specifically addresses the management of Reserve 85835, Waipukarau Park and outlines the way the reserve will be managed and used and provides the framework for Council to follow in relation to the management, permit and tenure processes for the land. The plan may be used to determine the allocation of resources and funds.



Leeton Shire Council is the Crown land manager of the Reserve described in this Plan of Management in accordance with the legislation and conditions imposed by the Minister administering the *Crown Land Management Act 2016*. The use of the land described in this Plan of Management must:

1.	be consistent with the purpose for which the land was dedicated or reserved
2.	consider native title rights and interests and be consistent with the provisions of the Native Title Act 2013.
3.	consider the inchoate interest of Aboriginal people where an undetermined Aboriginal Land Claim exists.
4.	consider and not be in conflict with any interests and rights granted under the Crown Land Management Act 2016
5.	consider any interests held on title.

2.0 Introduction



Leeton Shire is one of the most innovative, inclusive, and progressive places in regional Australia.

Located in the Riverina 584km from Sydney, 470km from Melbourne and 371km from Canberra, Leeton is the second largest regional center in the Western Riverina region.

Leeton Shire Council is responsible for the care and control of many parcels of community land and with the introduction of the Crown Land Management Act 2016 on 1 July 2018, Crown reserves, which Council as the Crown Land Manager will generally manage under the provisions of the Local Government Act 1993.



2.1 Corporate Objectives

Leeton Shire has a bright future. As a community we know that achieving this takes a clear vision, strong leadership, and dedicated commitment to see our aspirations delivered in full.



The Leeton Community Strategic Plan '*Leeton On The Go*' is made up of six themes. The six key themes are:

- 1 **A Healthy and Caring Community** - a community that:
focuses on being healthy, embraces lifelong learning,
is friendly and inclusive,
is safe to live in and move about,
enjoys good housing.
- 2 **A Healthy Natural Environment** - a community that:
respects the natural environment,
enjoys our natural environment.
- 3 **An Active and Enriched Community** - a community that:
participates in sports & active leisure,
enjoys arts and culture,
values its heritage.
- 4 **A Thriving Economy with Good Jobs** - a community that:
thrives with irrigated agriculture,
is strong in business and employment,
has great attractions and events,
enjoys a vibrant town center.
- 5 **A Quality Built Environment** - a community that:
has reliable water and sewerage services in towns,
has good road, rail, and air transport,
enjoys attractive towns and parks.
- 6 **Strong Leadership** - a community that:
has politicians who act and listen,
speaks up and gets involved,
is always on the front foot.

2.2 Lands to which this plan applies

The land to which this plan applies is Crown land managed by Council under the Crown Land Management Act 2016.

The assigned category is Park. The purposes and category align with of the reserve purpose, the current use and, the values identified in this plan.

The Reserve details are detailed in the Table and plan below:

Reserve Number	85835	Gazetted Date	01/07/1966		
Reserve Type	RESERVE	Management Type	Council Crown Land Manager		
Reserve Name	WAIPUKURAU PARK	Manager	Leeton Shire Council		
Purpose	Public Recreation	LGA	LEETON		
Suburb	LEETON	Area (m2)	18,394.56		
Lots	Part: Lot 4 DP 729578	Parish	YARANGERY	County	COOPER
Zoning	RE1	Classification	Community	Category	Park



2.3 Local Context

The Council managed Crown land contained in this Plan of Management provides valuable recreation facilities for the Leeton Shire offering both passive and active recreation for the community.

Waipukurau Park is valued highly by both residents and visitors for its recreational and aesthetic attributes. The park comprises primarily passive open space with a number of mature trees. Urban parks diversify recreational experiences and provide increased lifestyle benefits for the community.

An accessible, diverse, innovative, and safe playground, play and other recreational equipment situated in the park and contributes to the developmental needs of all children, creating a community hub that encourage interaction and community wellbeing. The park provides an essential interface to the recreation areas of the adjoining Day Care Centre and Preschool.

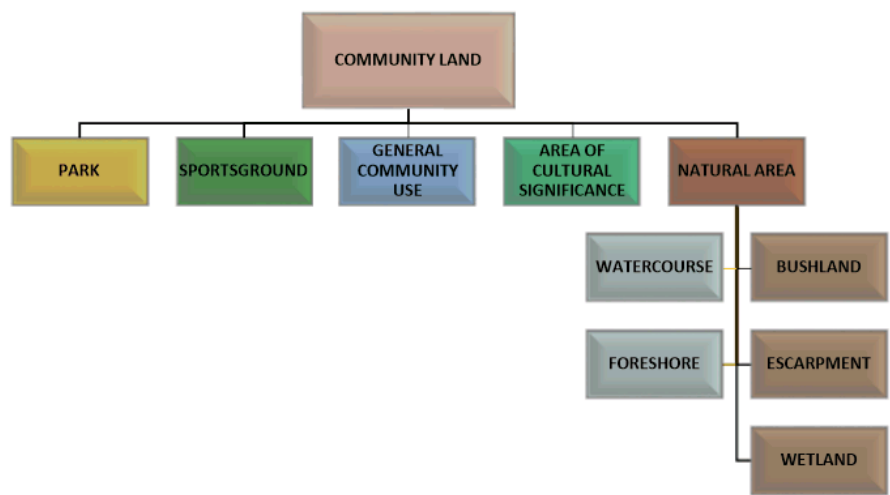
2.4 Owner of the lands

The lands to which this plan applies are owned by the Crown and are managed by Leeton Shire Council as Crown Land Manager under the Crown Land Management Act 2016.

The management and use of the lands are subject to the provisions contained in the Crown Land Management Act 2016 and are not presently subject to any other condition, restriction or covenant imposed by the owner.

2.4 Categorisation of the reserves

Under section 3.23(2) of the Crown Land Management Act 2016 Council Crown Land Managers must assign to all Crown land under their management one or more initial categories of community land referred to in Section 36 of the Local Government Act 1993.



Council managers must assign a category that they consider to be most closely related to the purpose(s) for which the land is dedicated or reserved. Multiple categories are assigned to Crown land where the Crown land is subject to multiple reservations and or dedications. The Minister administering the Crown Lands Act 2016 assigned the category of **Park** to the Reserve.

The degree to which the reserve purpose relates to the assigned category of the land is important for ongoing management of the land as Council must obtain Native Title Manager advice as to the validity of the activities that they wish to undertake on the land prior to dealing with the land.

Both the Aboriginal Land Rights Act and The Native Title Act recognise the intent of the original reserve purpose of the land so that complying activity can be considered lawful or validated.

Council had agreed that the initial category of **Park** is applied to the Reserve, this category has been determined to be the closest category to the reserve purpose of Public Recreation which applies for the Reserve and most closely aligns with the reserve purpose of the land and the core usage.

The category for these lands has been approved by the Minister administering the Crown Land Management Act 2016 in relation to the Reserve.

Activities on the reserve needs to reflect the intent of the public purpose and will be assessed for compliance with relevant Local Government and Crown Lands legislation including assessment of the activity under the Native Title Act 1996 and registered claims under the Aboriginal Land Rights Act 1983.

Use of the land for any activity is subject to application and approval. Assessment will consider compliance with the objectives and relationship to and impact upon the public purpose for the land. Other uses that do not comply with the Plan of Management or zoning of the lands under Council's LEP would not be considered.

3.0 Relevant Legislation, Policies and Procedures

3.1 Local Government Act 1993 Local Government (General) Regulation 2005

Under section 36(1) of the Local Government Act 1993, Plans of Management must be prepared for all community land. Community land is land which is kept for use of the general public.

Clause 101(2) of the Local Government General Regulation 2005 requires Council to have regard to the guidelines for categorisation of community land set out in Clauses 102 to 111 of that regulation.

This Plan of Management has been prepared in accordance with the Local Government Act using the land category approved by the Minister administering the Crown Land Management Act 2016.

The minimum requirements for a Plan of Management are set out under section 36(3) of the Local Government Act 1993.

A Plan of Management must identify the category of the land the objective and performance targets of the plan with respect to the land, the means by which Council proposes to assess its performance with respect to the plans, objectives, and performance targets, and may require the approval of the Council for the carrying out of any specified activity on the lands.

Section 36 (3A) specifies that Plans of Management that are specific to one area of land, must also describe the condition of the land as at the adoption of the plan, describe the buildings on the land as at adoption, describe the use of the buildings and the land as at adoption and state the purposes for which the land will be allowed to be used, and the scale and intensity of that use.

Sections 36E – 36N of the Local Government Act 1993 specifies the core objectives for the management of each category of community land.

3.2 Crown Land Management Act 2016

Division 3.6 of the Crown Lands Management Act 2016 deals with the requirements that Council must meet in relation to Plans of Management and other Plans.

Section 3.23(6) of the Crown Land Management Act 2016 requires Council Crown Land Managers to adopt a Plan of Management for any Crown Reserve for which it is appointed Crown Land Manager, and that is classified as community land under the Local Government Act 1993.

3.3 Other relevant legislation and statutory controls

3.3.1 Native Title Act 1993 (Federal)

All activities on the land must address the issue of native title. Whilst a successful claim for native title will lead to official recognition of native title rights, native title rights are considered to pre-date such recognition. Native title can therefore be relevant to activities carried out on the land even if no native title claim has been made or registered.

The native title process must be considered for each activity on the land and a native title assessment must be undertaken by an approved Native Title Manager. Almost all activities and public works carried out on the land will affect native title and require validation by Council's Native Title Manager of the future act procedures in Division 3 of the Native Title Act.

3.3.2 Aboriginal Land Rights Act 1983

In New South Wales, Aboriginal Land Rights sit alongside Native Title and allows Aboriginal Land Council's to claim 'claimable' Crown land.

Generally, the Aboriginal Land Rights Act is directed at allowing Land Council's to claim Crown land that is unlawfully used or occupied. If a claim is successful, the freehold estate of the land is transferred to the Land Council.

Council should be mindful that any activity on Crown land is lawful in relation to the reserve purpose of the land, Council should ensure that Crown land under its control is at all times lawfully used and occupied.

When planning an activity of the land such as the issue of a lease or licence or any public works, Council should request a search to determine whether an Aboriginal Land Rights claim has been made in relation to the land. If a claim is registered Council should seek further advice from Crown Lands – Aboriginal Land Claims Investigation Unit and the activity must be postponed until the advice is received.

Strategies which allow Council to validly carry out a project or activity under the Native Title Act may not deal with project risks arising in relation to the Aboriginal Land Rights Act.

3.3.3 Threatened Species Conservation Act 1995

Council has legislative responsibility under this Act to appropriately manage Threatened Species Populations and Vulnerable or Endangered Ecological Communities and their habitats wherever they occur despite the categorisation of the land.

Where identified Council is bound by the Act to take any appropriate action necessary to implement measures and must not make decisions that are inconsistent with the provisions of any Threat Abatement or Recovery Plan.

3.3.4 Environmental Planning and Assessment Act 1979

The lands are zoned RE1 Public Recreation under the Leeton Local Environmental Plan 2014.

The objectives of the zone are:

- to enable land to be used for public open space and recreational purposes,
- to provide a range of recreational settings and activities and compatible land uses,
- to protect and enhance the natural environment for recreational purposes, and
- to encourage the development of public open spaces in a way that addresses the community's diverse recreation needs.

3.3.5 Council Plans, Strategies, Policies and Procedures

This Plan of Management is to be used in conjunction with the appropriate Council plans, policies and procedures that govern the use and management of community land and any facilities located on the land.

Additional Council policies, plans and strategies adopted after the date of this plan that have relevance to the planning, use and management of community land will apply as though they were in force at the date of adoption of the Plan of Management.

3.3.6 Legislation and Statutory Controls

This Plan of Management does not over-rule existing legislation that also applies to the management of community land. Other legislation and policies to be considered in the management process include but are not limited to the:

Public Works Act 1912 (as amended)
Biodiversity Conservation Act 2016
Local Land Services Act 2016
Water Management Act 2000
Clean Waters Act 1970
Companion Animals Act 1998
Rural Fires Act 1997
Rural Fires Regulation 2002
Noxious Weeds Act 1993
Pesticides Act 1999
The Protection of the Environment Operations Act 1997
The Protection of the Environment Operations (Noise Control) Regulation 2008
State Environmental Planning Policies
Leeton Local Environmental Plan 2014
Leeton Development Control Plans as amended (under development)
Guidelines supporting development control plans (under development)
Council plans, strategies, policies, procedures, and guidelines, generally, as amended.

3.4 Reclassification

From time-to-time certain parcels of Community land may be identified as surplus to the existing and future needs of the community.

Section 3.21 of the Crown Land Management Act 2016 outlines the provisions of Management of dedicated or reserved Crown land within meaning of the Local Government Act 1993.

Section 3.21 (2) advises that a Council manager is authorised to manage its dedicated or reserved Crown land as if it were Community Land or operational land but only as permitted or required by Division 3.4 of the Crown Land Management Act 2016. The land described in this Plan of Management has been classified as Community Land.

3.5 Review of this Plan

The use and management of Waipukurau Park is regulated by this Plan of Management.

Whilst the guidelines and principles outlined in the plan may be suitable at present, the plan should be reviewed from time to time, to confirm its relevance.

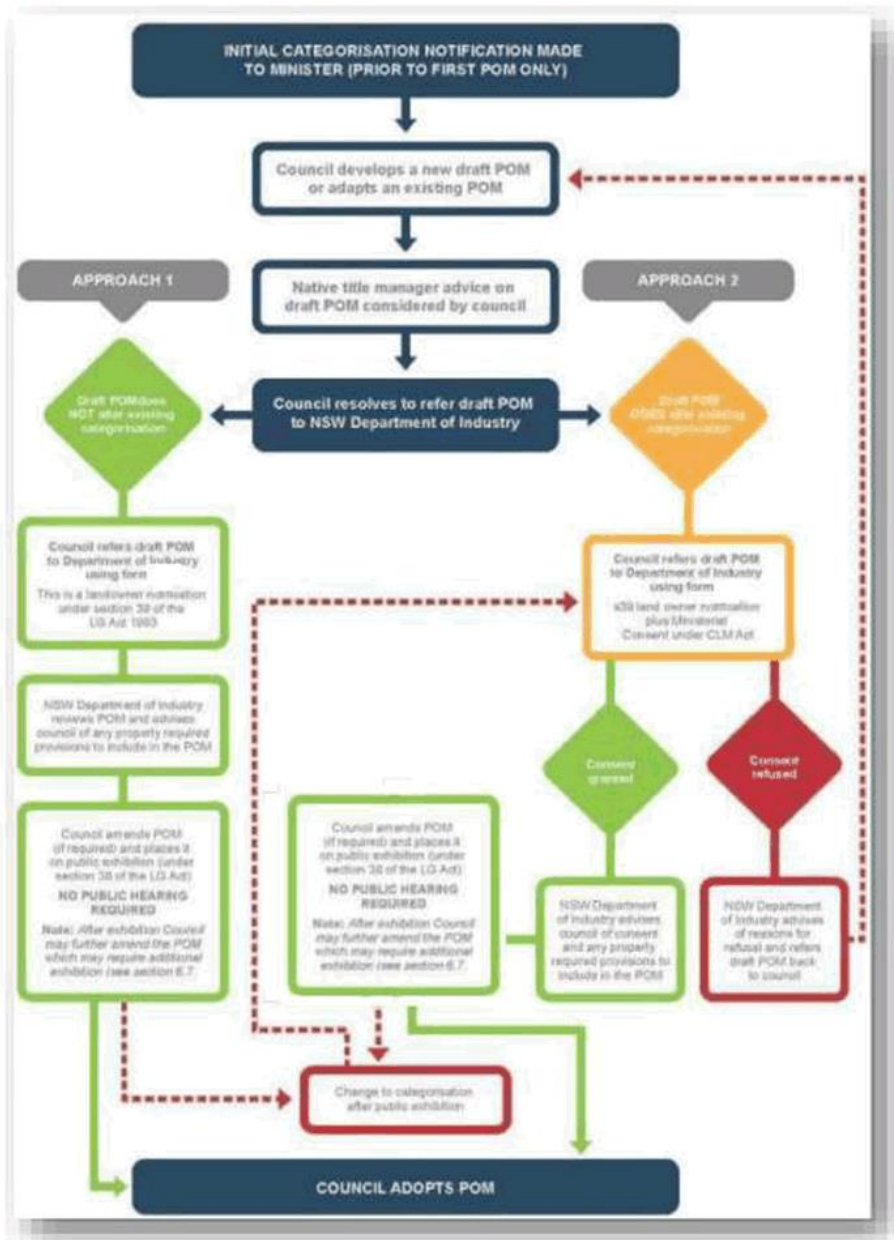
The review should take place within 5 years of adoption of this plan.

3.6 Community Consultation

Consultation with the community is an important part of the preparation of this Plan of Management. Consultation gives Council a better understanding of the range of local issues affecting the use and enjoyment of the land to which this Plan of Management applies and gives all sectors of the community the chance to have an input into the direction of policy development being undertaken by Council.

All stakeholders are given the opportunity to express their opinions and provide relevant information in relation to the planned management of the land, however, as the land is Crown land, final approval for this Plan of Management rests with the Minister administering the Crown Lands Act 2016 as the owner of the land.

Council is required to submit the draft Plan of Management to NSW Department of Industry, as representative of the owner of the lands under section 39 of the Local Government Act. As shown on the *Flowchart for Consultation and Approval of an Initial Plan of Management*, this process occurs prior to public exhibition and community consultation of the Plan of Management.



FLOWCHART FOR CONSULTATION AND APPROVAL OF AN INITIAL PLAN OF MANAGEMENT

Section 3.23(7)(d) of the Crown Land Management Act 2016 states that, if the draft first Plan of Management alters the initial categories assigned, the council must obtain the Minister's consent if the re- categorisation would require an addition to the purposes for which the land is dedicated or reserved.

The Minister cannot give consent under section 3.23(7)(d) if it is considered that the alteration is likely to materially harm the use of the land for its reserve purpose.

If after public consultation there is no change to categorisation and no additional purpose needs to be added to the reserve, no additional ministerial consent is required, and Council can proceed to adopt the Plan of Management as per the process outlined under Approach 1 of the ***Flowchart for Consultation and Approval of an Initial Plan of Management***.

If there is a proposed change to the categorisation of the land following public consultation the Plan of Management must again be referred to the Minister Administering the Crown Lands Act 2016 and the process outlined in Approach 2 of the ***Flowchart for Consultation and Approval of an Initial Plan of Management*** is followed. A change of Categorisation will not require a public hearing under Section 40A of the Local Government Act 1993.

4.0 Culturally significant land

4.1 Indigenous Significance



Leeton is located in the country of the Wiradjuri nation and many members of the community are Wiradjuri people.

The Wiradjuri are the largest aboriginal group in New South Wales and once occupied a vast area in central New South Wales known as the land of the three rivers: the Wambool (Macquarie), the Kalare (Lachlan) and the Murrumbidgee.

The Leeton Local Environmental Plan describes places of Aboriginal Heritage significance as:

An area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is:

- (a) *the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or*
- (b) *a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.*

Waipukarau Park is not identified as having Aboriginal significance and is not declared under section 84 of the National Park and Wildlife Act 1974, however, any areas of Aboriginal significance that may be discovered in the future are covered by this Plan of Management.

5. Core Objectives

The core objectives of the Local Government Act 1993 in relation to land categorised as Park are as follows:

- To encourage, promote and facilitate recreational, cultural, social, and educational pastimes and activities.
- To provide for passive recreational activities or pastimes and for the casual playing of games.
- To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.



5.1 Core Objectives and Performance Targets

OBJECTIVES AND PERFORMANCE TARGETS OF THE PLAN IN RESPECT TO THE LAND	MEANS BY WHICH THE COUNCIL PROPOSES TO ACHIEVE THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS	MANNER IN WHICH COUNCIL PROPOSES TO ASSESS ITS PERFORMANCE WITH RESPECT TO THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS
To encourage, promote and facilitate recreational, cultural, social, and educational past times and activities.	Development of the reserves in accordance with this plan.	All works are completed, and minimal negative feedback is received.
To provide for passive recreational activities and for the casual playing of games.	Development of the reserves in accordance with this plan.	All works are completed, and minimal negative feedback is received.
To improve the land in such a way as to promote and facilitate is used to achieve the other core objectives for its management.	Development of the reserves in accordance with this plan.	All works are completed, and minimal negative feedback is received.

6.0 Development and use

6.1 Overview

One of the primary responsibilities of Local Government is to provide an acceptable level of service for public assets to its community within budgetary constraints.

Council's ongoing commitment to the development and maintenance of these areas depends on financial resources and forward planning. The implementation of actions identified in this Plan of Management are consistent with Leeton Shire Council's corporate objectives as outlined in:

Leeton Shire Council's Community Strategic Plan towards 2030 "Leeton On The Go".
<http://www.leeton.nsw.gov.au/f.ashx/files/basic-html/For-Hard-Copy-Printing-Leeton-On-The-Go-Our-Community-Strategic-Plan-Towards-2030.pdf>

Leeton Shire Council Delivery Program 2017-2022 and Operational Plan 2021/2022.
<https://www.leeton.nsw.gov.au/f.ashx/Council-Plans/Delivery-Program-2017-2022-and-Operational-Plan-2021-22-FINAL.pdf>

Leeton Shire Council Resourcing Strategy 2018-2027 & Asset Management Plan 2017-2027
<http://www.leeton.nsw.gov.au/f.ashx/Council-Plans/Combined-Resourcing-Strategy-28-June-2017.pdf>

Leeton Shire Council Playground Strategy 2017-2032
<https://www.leeton.nsw.gov.au/f.ashx/Council-Plans/Playground-Strategy-2017-2032-adopted-25-Oct-17.pdf>

Leeton Shire Council's Parks, Playgrounds and Recreational Facilities Asset Management Plan
<http://www.leeton.nsw.gov.au/f.ashx/pdf/Parks-Playgrounds-and-Recreational-Facilities-Asset-Management-Plan.pdf>

6.2 Strategic Objectives

Council's strategic planning objectives for Waipukurau Park are as follows:

STRATEGIC PLANNING OBJECTIVES	
1.	To provide a distribution of open space and facilities that matches demand and supply as far as possible, consistent with the open space principles outlined in Council's Community Plan.
2.	To provide a recreational area interface with the adjoining Children's Services Land, consistent with the reserve purpose of the land.
3.	To provide high quality open space and facilities requiring a minimum of maintenance.
4.	To prevent land degradation and to minimise physical disturbance to the land.
5.	To provide public access to community land consistent with the adopted use strategy.
6.	To provide a healthy environment, especially plant communities on the land.
7.	To provide a broad spectrum of safe, high quality recreational opportunities.
8.	Maintain flexibility for future decision making and to allow changes in community preferences.
9.	To allow for temporary uses for private functions, provided that Council is satisfied that the temporary use does not significantly affect the permanent use of the land.

6.3 Purpose and Value of Park Areas

Waipukarau Park provides for a generalised use of open space and allows for a wide range of both recreational and leisure activities including areas set aside for casual activities such as picnicking and other social and casual activities.

These informal open space areas offer the community a range of opportunities in which to undertake passive and unstructured activities, such as sitting for rest and relaxation, walking and, casual games.

Based on legislative and corporate goals, community needs and expectations and the values and assets of the Park areas themselves, the following broad primary objectives have been identified.

- ✓ To ensure management of urban park recreation areas takes into consideration the principles of Crown Land management.
- ✓ To provide for public safety.
- ✓ To efficiently and effectively manage public assets.
- ✓ To provide the wider community with sufficient appropriate access to urban park recreation areas.
- ✓ To encourage community involvement in the management of urban park recreation areas.
- ✓ To maintain the scenic, educational, aesthetic, cultural and heritage values of urban park recreation areas.
- ✓ Leeton Shire Council will continue to be recognised for being one of the most family friendly local government areas in NSW through the sustainable provision and management of high quality, accessible, diverse, innovative, safe, and fun playgrounds that contribute to the developmental needs of all children.
- ✓ That playground areas within Urban parks become community hubs that encourage interaction and community wellbeing.

Urban recreation areas such as Waipukarau Park within Leeton Shire comprise those sites set aside for casual activities such as picnicking and other social or casual recreation activities. For parks and reserves, this is the principle function of the space.

While many of the reserves in the Leeton Shire possess an informal layout and contain minimal infrastructure such as seating and rubbish bins, some parks include a variety of facilities, for example tables and shelter sheds and toilet facilities which are all important to people's enjoyment of the passive recreation opportunities offered within open space areas.

The level of facilities provided, and the maintenance standards provided by Council staff are kept within allocated budgets.

Trees shrubs and landscaping can be used to provide shade and to improve the visual interest of an area. Trees, shrubs, and landscaping can increase the general biodiversity values of a reserve.

6.3.1 Playgrounds and play areas

Leeton and its surrounding villages are known as a family friendly place to live with wonderful recreational facilities. Playgrounds situated in Urban parks perform an important role in attracting and keeping families in the Leeton Shire area. Playgrounds within urban parks are one of the most utilised recreation assets Council maintains.

Community and play areas and playgrounds create spaces where the community, children and their carers are able to experience a variety of creative and social opportunities and physical challenges within a safe environment. These areas contribute significantly to the physical and social development of children and offer social benefit to the wider community.

Play areas and playgrounds:

- ✓ provide safe and functional recreational facilities
- ✓ contribute to the development of gross motor skills
- ✓ contribute to social development through interactive and imaginative play and through the sharing of play space
- ✓ provide valuable spaces as a community gathering space for children and their carers.



The opportunity to develop interactive playgrounds designed for specific park areas and sensitive to the surroundings, may be considered subject to demonstrated need and available resources.



6.3.2 Condition of the land and structures on adoption of the Plan of Management

In June 2018 Council commissioned a comprehensive assessment of Council's buildings, parks and recreation facilities and plant and equipment assets.

The site comprises primarily passive open space in good, grassed condition and includes a children's play area and seating. Parking is available.

The playground equipment was installed in 2019 the equipment is of a modern design and is in good to excellent condition.

SLIPPERY DIP	SENIOR SWINGS	MODULAR PLAY STRUCTURE	ROUNDAABOUT	SOFT FALL ZONES	SEATING
☑	☑	☑	☑	☑	☑

6.4 Permitted use, history of the reserve and future use

6.4.1 Permitted use, history of the reserve and strategic objectives

Crown land can be reserved or dedicated for various public purposes. The notified purpose for Reserve 85835 is for a Public Park and Public Recreation. Uses of the park must align with these reserved purposes.

History of the Reserve

This land was set aside for a park in Willimbong, a subdivision of Leeton which was developed in the late 1960's. The park was named Waipukurau in honour of a town in New Zealand which has been a sister town for Leeton for some years and the subject of a number of exchange projects.



Waipukurau Park was originally reserved from sale for Public Recreation on 1 July 1966.

(331) Sydney, 1st July, 1966.

RESERVES FROM SALE

IT is hereby notified in pursuance of the provisions of section 28 of the Crown Lands Consolidation Act, 1913, that the Crown lands hereunder described shall be reserved from sale for the public purposes hereinafter specified, and they are hereby reserved accordingly.

JACK G. BEALE, Minister for Conservation.

FOR PUBLIC PARK AND PUBLIC RECREATION
CENTRAL DIVISION
Land District of Yanco; Yanco No. 1 Irrigation Area; Shire of Leeton

Reserve No. 85,835 from sale. The Crown lands within the boundaries of allotment 12, section 93, and section 98, town of Leeton, parish of Yarangery, county of Cooper, and State of New South Wales, containing an area of 6 acres 2 roods 27 perches or thereabouts. Plan Nos Leeton 399 and 404. (W.C. & I.C. 64/952/1; M.I.A. 64/C. 2,888)

The Council of the Shire of Leeton was appointed Trustee of the Reserve under the provisions of the public Trusts Act 1897 on 9 September 1966.

NOTICE APPOINTING TRUSTEE UNDER THE PUBLIC TRUSTS ACT, 1897.—PROCLAMATION

IN accordance with the provisions of the Public Trusts Act, 1897, I, Sir ARTHUR RODEN CUTLER, Governor of the State of New South Wales, with the advice of the Executive Council, do, by this notice, appoint The Council of the Shire of Leeton as Trustee of Reserve No. 85,835 at Leeton for Public Park and Public Recreation notified on the 1st July, 1966. (W.C. and I.C. 64/952/1; M.I.A. 64-C. 2,888)

Signed and sealed at Sydney, this twenty-fourth day of August, one thousand nine hundred and sixty-six.

A. R. CUTLER, Governor.

By His Excellency's Command,
JACK G. BEALE, Minister for Conservation.

(1599)

GOD SAVE THE QUEEN!

6.4.2 Interface with Children's Services Lands

The original portion reserved for public recreation in 1966 has been reduced in size by revocation and annexure of areas to be set aside for Children's Services Lands as shown below. These annexed portions are occupied by the Leeton Pre-school Kindergarten (Reserve 89629) and the Leeton Early Learning Centre (Reserve 97727). Both facilities continue to have an important interface with the park for their recreation purposes.

On 6 April 1973 a portion of the reserve containing an area of 3465 square meters was annexed from the park.

(3216) Sydney, 6th April, 1973.
REVOCATION OF PART OF RESERVE FROM SALE OR LEASE GENERALLY
IT is hereby notified under the provisions of section 30 of the Crown Lands Consolidation Act, 1913, that the part of the reserve from sale hereunder described is hereby revoked.
G. F. FREUDENSTEIN, Minister for Conservation.

FOR PUBLIC PARK AND PUBLIC RECREATION
CENTRAL DIVISION
*Yanco No. 1 Irrigation Area; Land District of Yanco;
Shire of Leeton*
That part of Reserve No. 85835 from sale for Public Recreation notified on 1st July, 1966, being all that piece or parcel of land containing an area of 3465 square metres or thereabouts situated in the Parish of Yarangery, County of Cooper and State of New South Wales and being all that part within section 93, Town of Leeton. (W.C. and I.C. 71-575; 67-B519)

On 31st October 1975 the portion of the park contained in Lot 2 Section 98 was annexed from the park for the public purpose of a Kindergarten and a further portion added to the Kindergarten reserve by Gazettal on 17 May 1991.

(4170) Sydney, 31st October, 1975.
**REVOCATION OF PART OF RESERVE FROM SALE OR
 LEASE GENERALLY**

IT is hereby notified under the provisions of section 30 of the Crown Lands Consolidation Act, 1913, that the part of the reserve from sale hereunder described is hereby revoked.

L. A. PUNCH, Minister for Public Works and Ports.

**FOR PUBLIC PARK AND PUBLIC RECREATION
 CENTRAL DIVISION**

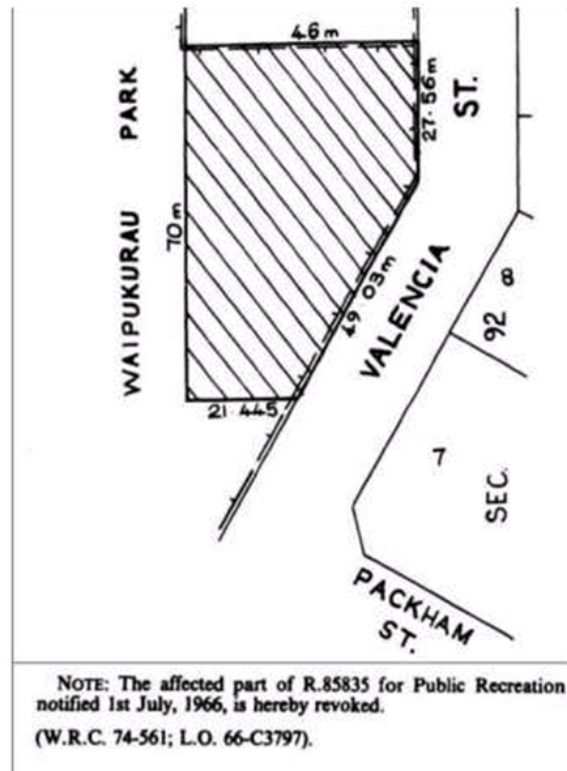
*Yanco No. 1 Irrigation Area; Land District of Yanco; Shire of
 Leeton*

That part of Reserve No. 85835 from sale for Public Park and Public Recreation notified on 1st July, 1966, being all that piece or parcel of land situated in the Parish of Yarangery, County of Cooper and State of New South Wales, being allotment 2, section 98, Town of Leeton, containing an area of 1 684 square metres or thereabouts.

(W.C. & I.C. 74/561; 66.C3797)

ADDITION TO RESERVED CROWN LAND	
Pursuant to Section 88 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the Schedule hereunder is added to the reserved land specified opposite thereto in Column 2 of the Schedule.	
GARRY HEST Minister for Lands and Forests	
SCHEDULE	
COLUMN 1	COLUMN 2
Land District: Yanco	Crown land reserved for the public purpose of Kindergarten by notification in the Government Gazette of 31st October 1975 as Reserve No. 89529
Shire: Leeton	
Parish: Yarangery	
County: Cooper	
Town: Leeton	
Lot 3 D.P. 729576	
Area: 460 square metres	
File No.: LNS985	
Notes: Part Reserve No. 85835 for Public Park and Public Recreation, Lot 3 in D.P. 729576, is revoked by this notification.	

On 19 April, 1985 a further portion of the reserve was annexed from the park and reserved for the purpose of a Day Nursery.



Leeton Shire Council now manages the Reserve under the provisions of the Crown Land Management Act 2016.

6.5 Further development

Council's strategic planning objectives for Waipukarau Park is to provide a distribution of space and facilities that matches demand from the community and provides high quality open space and facilities requiring minimum maintenance. (including the interface with the adjoining Children's Services Lands which were part of the original reserve)

Whilst maintenance of existing infrastructure is a priority there is scope to improve and develop facilities on the reserve provided that the proposed facilities are in line with the purposes for the reserve and relevant legislation such as The Local Government Act 1993, The Crown Land Management Act 2016, The Aboriginal Land Rights Act 1983 and the Native Title Act 1993.

Subject to budget availability, Council may construct or approve construction by others of a variety of facilities on the land. The purpose of the facilities shall be to support activities and uses that are consistent with the core objectives of the land category and the reserve purpose and shall not materially harm the land for the purpose that it was reserved or dedicated.

Proposed projects must be in line with Council's strategic plans. All construction and alteration must have Council's Native Title Manager's written advice in relation to Native Title and Aboriginal Land Claims.

Projects proposed by the community and other users of the reserve must be approved by Council administration and be in line with Council or facility strategic plans. Projects must align with the reserve purpose and core objectives for the reserves. Depending on the scope of the project Council may request a written proposal outlining the project and proposed location, estimated costs, scaled plans, justification for proposed works, future maintenance requirements and other elements relevant to the project.

This plan of management authorises the development and management of gardens for community use. These gardens may be leased or licensed to community groups to manage, provided that membership of these groups is open to the general community.

A comprehensive site development plan and a landscape management plan is recommended for larger projects to ensure a strategic approach to development.

6.6 Leases, Licences, and other Estates

The Local Government Act contains important restrictions on the ability of Council to grant leases, licences, and other estates over community land as these alienate the land and limit the ability of the public to use that land. Generally, a lease will be required where exclusive occupation or use of all or part of an area is proposed, however given the nature of the reserve and the reserve purpose of the land a licence is the preferred option to enable continued public access to the reserve. A licence may be required for casual activities that may affect other park users.

Leases, Licences, and other estates formalise the use of community land by community groups and non-profit organisations, or by commercial organisations and individuals providing facilities and services for public use. Activities should be compatible with the zoning of the land, provide benefits and services or facilities to the users of the land, be aligned to the reserve purpose and core objectives for the land and should not alienate the land and limit the ability of the public to use the land.

Exclusive occupation of the land other than by lease or licence or other estate or for a permitted purpose listed in the Local Government Regulations 2005 is prohibited.

The terms of the authorisation for a lease licence or other estate should include Native Title assessment and validation under the Native Title Act 1993. The authorisation should ensure the proper management and maintenance of the land and that the interests of Council and the public are protected. A lease is normally issued where exclusive control of all or part of an area by a user is proposed, a lease should not exclude the public from the reserve. In all other instances a licence, a short-term licence or hire agreement will be issued.

This Plan of Management **expressly authorises** the issue of Leases, Licences and other Estates over land contained in this plan of management, provided that:

- the purpose is consistent with the core objectives for the category of the land.
- the lease, licence or other estate is for a permitted purpose listed in the Local Government Act 1993 or the Local Government Regulations 2005.
- the issue of the lease, licence or other estate and the provisions of the lease, licence or other estate can be validated by the provisions of the Native Title Act 1993.
- the land is not subject to a claim under the Aboriginal Land Rights Act 1983 or if the land is under claim advice has been sought from Crown Lands, Aboriginal Land Claims Investigation Unit.
- the lease, licence or other estate is granted and notified in accordance with the provisions of the Local Government Act 1993 or the Local Government Regulations 2005.
- the issue of the lease, licence or other estate will not materially harm the use of the land for any of the purposes for which it was dedicated or reserved and will not exclude the public from using the reserve for the reserve purpose.

Areas held under lease, licence or regular occupancy shall be maintained by the user. The user will be responsible for maintenance and outgoings as defined in the lease or licence or agreement for use.

6.7 Native Title Assessment

The Crown Land Management Act 2016 provides a new regime for the management of Crown Land and Council is now responsible for compliance with Native Title legislation for the Crown Land that it manages.

Council is required to undertake steps to identify if the activity that they do on Crown Land will affect Native Title (in accordance with Crown Lands directions), what provisions of the Native Title Act will validate the activity and what procedures should be taken in relation to a particular activity prior to its commencement.

Council must receive written advice from its Native Title Manager in relation to certain activities and acts carried out on Crown land.

Council's Native Title Manager must have carried out approved training and must be appointed each year and the appointment advised to the Minister administering the Crown Lands Act. The Native Title assessment must align with Crown Land directions.

7.0 Plan of Management Administration and Management

7.1 Plan of Management Objectives

The general objectives of this Plan of Management are:

PLAN OF MANAGEMENT OBJECTIVES	
1.	To ensure that relevant legislation is complied with in relation to the land.
2.	To inform Council staff and the community of the way the land will be managed.
3.	To implement specific policies, guidelines and works identified in the plan of management.
4.	To progressively improve the values of the land and to minimise the long-term cost of maintenance to the Council
5.	To make provisions for appropriate leases, licences, and agreements in respect to the land.
6.	To identify and recognise existing uses and improvements on the land.
7.	To set in place and administrative structure to ensure the achievement of land management objectives set by the owner of the land.
8.	To ensure that the management of the land is not likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved.

7.1.1 Management Authority

For the purposes of this plan, the management authority is Leeton Shire Council, in accordance with the provisions of the Crown Land Management Act 2016 and the Local Government Act 1993.

7.1.2 Delegation of Authority

Where Council's responsibilities have been delegated, the provisions of this management plan continue to apply.

7.1.3 Management Principles

The Management of Waipukarau Park should take into consideration the principles of Crown Land management. The management of the park must also take into account the reserve purpose of the land and the purpose for which the land is classified and categorised.

7.2 Action Plan

The Plan of Management specifies performance targets and priorities for actions to be taken in relation to the land to which the plan applies.

Assessment of achievement of the objectives of the plan is to be undertaken. A summary of indicators and targets for major objectives is outlined in the table below:

OBJECTIVES AND PERFORMANCE TARGETS OF THE PLAN IN RESPECT TO THE LAND	MEANS BY WHICH THE COUNCIL PROPOSES TO ACHIEVE THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS	MANNER IN WHICH COUNCIL PROPOSES TO ASSESS ITS PERFORMANCE WITH RESPECT TO THE PLAN'S OBJECTIVES AND PERFORMANCE TARGETS
To ensure that relevant legislation is complied with in relation to preparation of Plans of Management.	The Plan is prepared in accordance with the Act. Native Title Manager advice is sought during the preparation of the Plan.	The Plan is reviewed by Council's Native Title Manager and Department of Industry Crown Lands then exhibited and adopted by Council if there are no changes to the approved plan. If changes are made following exhibition the plan must again be approved by Department of Industry Crown Lands.
To inform Council staff and the community of the way the land will be managed.	The Plan is exhibited in accordance with the Local Government Act.	The Plan is exhibited and adopted by Council.
To implement the specific policies, guidelines and works identified in the plan of management.	Ensure that the Plan is referenced to identify specific policies, guidelines and works.	All works are carried out in accordance with the Plan.
To progressively improve the values of the land to minimise the long-term cost of maintenance to the Council.	Carry out all works identified in Council's long-term plan.	All works are completed, and minimal maintenance of the improvements is required.
To make provision for leases, licences, and agreements in respect of the land.	The Plan of Management expressly authorises the provision of leases, licences, and agreements where appropriate.	Any leases are prepared, exhibited and adopted in accordance with the reserve purpose of the land and the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016. Native Title Manager advice is received for all proposed leases and licences.
To identify and recognise existing uses and improvements on the land.	Physical inspection.	The Plan is exhibited and adopted by Council.

To provide a reference and data bank in relation to information relevant to present and future management of the land.	Physical inspection and file research.	The Plan is exhibited and adopted by Council.
To set in place an administrative structure to ensure the achievement of land management objectives.	Ensure that all sections of Council are aware of the contents of the Plan.	The Plan is exhibited and adopted by Council.
To identify the major management issues applying to the land.	Consultation and staff discussions.	The Plan is exhibited and adopted by Council.
To simplify the process of management as far as possible.	Preparation of the Plan in accordance with the Act.	The Plan is exhibited and adopted by Council.

7.3 Administration

Administrative issues have an important influence on the way in which the land is managed.

Administration	
Staff Resources	Council shall seek to provide adequate staff resources for the management of the land in accordance with this Plan of Management. Staff shall have appropriate qualifications and/or experience.
Environmental Assessment of Activities	The environmental impact of activities carried out on the land will be assessed having regard to the requirements under the Environmental Planning and Assessment Act.
Role of Other Authorities	Other government authorities may have responsibilities or involvement in the management of the land or of immediately adjacent land. This will be taken into account and, where appropriate consultation will take place with relevant authorities.
Activities Carried Out by Other Authorities	Where activities are carried out on the land by other authorities, Council will make the authorities aware of the provisions of this Plan of Management and will seek to ensure that any activities are compatible with the objectives and guidelines of this Plan of Management.
Community Involvement in Management	Where appropriate Council may undertake community consultation subsequent to the making of this Plan of Management and may give community groups a role in management.
Contract and Volunteer Labor	In managing the land Council may use contract and volunteer labor but shall ensure that supervisors have appropriate qualifications and/or experience and are made aware of the requirements of this plan.
Delegation of Management Responsibilities	Where management responsibilities are delegated by the Council a requirement of the delegation shall be that the provisions of this Plan of Management are complied with.

Easements	The Council may grant easements for the provision of services over, or on the land provided that the land is not subject to Aboriginal Land Claim under the Aboriginal Land Rights Act, 1983, a Native Title assessment has been carried out by Council's Native Title Manager and the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016 have been complied with.
Existing Assets	Existing assets on the land shall be identified and measures taken to maintain them in a satisfactory manner. Council may make arrangement for community groups and users to undertake maintenance for specific facilities on Council's behalf.
Public Liability	Council will maintain public liability insurance for the land. All users of the land under lease, licence or agreement will be required to take out public liability insurance for a sum of not less than \$20m.
Public Safety	Reasonable measures will be taken by Council to ensure and maintain the public safety of persons using the land.
Commercial Activities	Commercial activities may be carried out on the land, provided that such is ancillary to a purpose authorised under this Plan of Management and is subject to prior Council consent.
Emergencies	This Plan of Management authorises any necessary activities to be carried out during declared emergencies as may be decided by the General Manager or delegate. Following carrying out of any activities, periodic monitoring will be undertaken, and rehabilitation works undertaken if necessary.
Occupation by Adjoining Landowners	In instances where there is an encroachment upon public land by a permanent structure, and the structure does not significantly interfere with the functioning of the reserve for the reserve purpose, Council may consider a lease or licence agreement with the adjoining property owner and recoup a fee as part of that agreement.
Land Proposed for Future Development	Land proposed in any of Council's plans for future development for a specific purpose may be utilised for other purposes on an interim basis until required for that purpose.
Undeveloped Areas	Land to which this Plan of Management applies that is undeveloped and unused for the purpose of the land, may upon assessment be used for any activity that does not prevent or inhibit future use for the purpose of the land, including tree planting and mowing,

7.4 Management Guidelines

Based on legislative and corporate goals, community needs and expectations the following Management Guidelines have been identified. Some matters are subject to additional adopted policies and procedures and these are to apply where appropriate.

7.4.1 Management Authority

For the purposes of this Plan the management Authority is the Crown Land Manager, Leeton Shire Council who will manage the land in accordance with the provisions of the Crown Land Management Act 2016 and the Local Government Act 1993.

7.4.2 Management Issues

The management aims to maximise the provision of open space area and facilities for the community, whilst ensuring that optimum condition of the Reserve is maintained, that conflicts are minimised, and that any future embellishments are compatible with the existing functions, reserve purpose and character of the park. To provide the best service to the community, the management of the park needs to be well planned and resourced and the use needs to be permitted on an equitable basis.

Play and Recreational Equipment	Play equipment may be installed or removed. Equipment shall be regularly maintained and kept in a safe condition in accordance with the relevant Australian Standard and Council's Playground and Equipment Upgrade Plan.
Mowing	Urban recreational (Park) areas will be mowed in accordance with approvals, manuals or schedules as required.
Watering	Watering of the urban recreational (Park) areas shall be undertaken as required and according to specific water restrictions that may be in place.
Irrigation	This Plan of Management authorises the installation of underground irrigation pipes. This includes the use of recycled water.
Wet Weather Use	During periods of wet weather, Council may restrict the use of the urban recreational (Park) area to prevent damage to grass surfaces.
Hours of Operation	Council may restrict the hours of operation of any area of the urban recreational (Park) areas at its discretion.
Development Activities	Development activities shall be undertaken in a way that minimises the area, degree and duration of disturbance, and areas are to be restored to the greatest extent practicable.
Alcohol	The occasional sale of alcohol by a sporting committee, club or user group requires the approval of the NSW Office of Liquor Gaming and Racing through the issue of a Limited Licence. The Licence should be provided to Council in each instance. When making application for the use of an active recreational area if the sale of alcohol is intended, applicants are required to comply with any requirements of both the Office of Liquor Gaming and Racing and Council.

Companion Animals	<p>Domestic pets may use the land where authorised by signage provided that they are under the control of a responsible person at all times and do not cause loss of amenity to other users of the land, except where specifically publicly notified.</p> <p>Dogs are not permitted within any area that is:</p> <ul style="list-style-type: none"> • set aside for the playing of organised games, or • within 10 meters of a children’s playing apparatus or • within 10 meters of cooking or eating facilities. <p>Dogs are not permitted to be walked off leash unless they are within Council’s designated off leash exercise areas.</p> <p>Dog clubs are required to seek Council permission to conduct dog obedience and training activities on all community land.</p>
Parking	<p>Car parking areas should not occupy valuable land but be positioned to minimise the impact on the reserve.</p> <p>Car parking is not to be situated near children’s play areas. Existing car parking areas will be maintained to safety standards. Where off street parking occurs within the park consideration will be given to the provision of parking spaces for people with a disability (in accordance with regulations).</p> <p>Internal roads and parking areas may be constructed or reconstructed to a safe and all weather standard.</p>
Neighbours	<p>Council shall endeavor to be a good neighbor and, as far as possible shall consult with adjoining owners in respect of management or other activities which may affect them.</p>

7.4.4 Buildings and Amenities

As well as providing largely unstructured areas for a variety of informal uses, Council’s parks provide supplementary facilities to enhance people’s enjoyment of their visit. These facilities will be maintained and enhanced, or introduced where possible, subject to an identified need.

Native Title Assessment	<p>The terms of the authorisation for the commencement of any building or development activity should include a Native Title assessment and validation under the Native Title Act 1993 to be carried out by Council’s Native Title Manager.</p>
Aboriginal Land Claim	<p>The terms of the authorisation for the commencement of any infrastructure construction activity should include advice that the land is not subject to a claim under the Aboriginal Land Rights Act 1983. If a claim is registered on the land activity cannot commence until advice is received. If a claim is registered over the land the claim must be resolved prior to commencement of any activity on the land.</p>

Access	This plan of management seeks to facilitate access to the land to enable its use for the purposes of a park.
Buildings and Amenities	Buildings and amenities may be provided where consistent with the need to facilitate the use of the land for the reserve purpose, the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016 have been complied with. Buildings and amenities are to be maintained to the highest possible standard.
Public Toilets and Amenities	Where public toilets are provided for community groups, not for profit or users of commercial users under lease or licence they are to be maintained by the user.
Play Equipment and Recreation Equipment	Additional play equipment shall be constructed and maintained in accordance with the relevant Australian Standard and may be replaced or removed as required in accordance with Council policy and plans.
Outdoor furniture	Additional outdoor furniture shall be provided as required and maintained to a safe standard in accordance with any adopted landscape design.
Private buildings	Private buildings may be constructed only where there is a lease or licence from Council and that lease or licence specifically makes provision for the use or erection of a private building. Private buildings and the lease areas are to be fully maintained by the user. Private buildings will only be permitted where the use aligns with or is ancillary to the reserve purpose of the land.
Public Buildings	Public buildings may be constructed for any purpose that aligns with or is ancillary to the reserve purpose of the land, provided that the provisions of the Local Government Act 1993 and the Crown Land Management Act 2016 have been complied with. Community facilities that align with the reserve purpose may also be permitted.
Removal of Buildings or Utilities	Buildings or utilities that are no longer required may be removed by the Council subject to development approval. The land is to be rehabilitated following removal.
General Maintenance	General maintenance will match the level and type of use. Areas held under lease, licence or regular occupancy will be maintained by the user where appropriate. Existing assets on the land shall be identified and measures taken to maintain them in a satisfactory manner. The Council may make arrangements for community groups and other users to undertake maintenance on Council's behalf.
Horticultural Maintenance	Mowing shall be regularly undertaken as required in accordance with any adopted Council procedures manual. In areas of concentrated use reseeding or turfing may be undertaken as required.
Cleaning	Buildings and amenities will be regularly cleaned and maintained in a tidy condition in accordance with any adopted Council procedure manual.

7.4.5 Infrastructure

The level of facilities provided, and the maintenance standards provided by Council staff are kept within allocated budgets and to an agreed level of care. The maintenance and scheduled upgrade of infrastructure is therefore crucial for the long-term management of the passive recreation areas. Increasing the level of infrastructure provided in some parks may be considered and, would be assessed with regard to patronage of the site and the scale of the additional facilities compared to the overall size, location, and accessibility of the reserve.

Native Title Assessment	The terms of the authorisation for the commencement of any infrastructure construction activity should include a Native Title assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager.
Aboriginal Land Claim	The terms of the authorisation for the commencement of any infrastructure construction activity should include advice that the land is not subject to a claim under the Aboriginal Land Rights Act 1983. If a claim is registered on the land activity cannot commence until advice is received. If a claim is registered over the land the claim must be resolved prior to commencement of any activity on the land.
Infrastructure	Any necessary infrastructure to service the purpose of the land may be constructed.
Services and Utilities	Services and utilities such as water supply, sewerage, electricity supply, gas and telecommunications may be constructed, maintained, or repaired on the land.
General Maintenance	General maintenance will match the level and type of use. Areas held under lease, licence or regular occupancy shall be maintained by the user. Existing assets on the land shall be identified and measures taken to maintain them in a satisfactory manner. The Council may make arrangements for community groups to undertake maintenance for specific facilities on Council's behalf.
Energy Efficiency	Measures shall be taken to improve the energy efficiency of all buildings and activities carried out on the land. Measures shall include use of energy efficient lighting, periodic auditing of energy use, and appropriate orientation of any new buildings to incorporate passive solar design principles.
Lighting	Where appropriate, adequate lighting shall be provided on the land to ensure public safety and security for buildings and amenities as far as possible.
Floodlighting	Floodlights shall be designed and operated to minimise glare and spillage of light to adjoining properties. Where possible floodlights should comply with AS2560.
Fences	Fences may be constructed and shall be in accordance with any standards or guidelines adopted by Council.
Signs	Signs may be erected on the land in accordance with State Environmental Policy and any adopted Development Control Code and Policy. This plan of management authorises the erection of regulatory, interpretive, and directional signage within parks.

7.4.6 Access

In principle, all of Council's public open space areas should be accessible to the whole community, regardless of age, ability, or gender. Access for people with a disability is accommodated where possible for general movement around open space areas and for the use and enjoyment of facilities and amenities.

Access and Occupation	The Plan of Management seeks to facilitate access to the land to enable its use for passive recreational purposes.
Access	Access to the land may be limited by Council at times where this may interfere with works or may have an adverse effect on the land.
Public Access	Public access to land to which this Plan of Management applies can be denied to assist rehabilitation or protection of special items of significance or where a lease or licence has been granted but shall not otherwise be denied.
Occupation by Adjoining Landowners	In instances where there is an encroachment upon public land by a permanent structure, and the structure does not significantly interfere with the functioning of the reserve, Council may consider a lease or licence agreement with the adjoining property owner and recoup a fee as part of that agreement.
Roads and Parking	Roads and parking areas may be constructed or reconstructed to a safe all-weather standard. New roads and parking areas may be constructed. In cases where significant new roadworks is proposed, a master plan should be prepared, and the works constructed in accordance with the plan.
After Hours Access	After-hours use of the parks may be restricted by signage or the opening and closing of gates and entry points where applicable.

6.4.7 Development Activities

Native Title Assessment	The terms of the authorisation for the commencement of any development or construction activity should include a Native Title assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager.
Aboriginal Land Claim	The terms of the authorisation for the commencement of any infrastructure construction activity should include advice that the land is not subject to a claim under the Aboriginal Land Rights Act 1983. If a claim is registered on the land activity cannot commence until advice is received. If a claim is registered over the land the claim must be resolved prior to commencement of any activity on the land.
Development Activities	Development activities shall be undertaken in a way that minimises the area, degree and duration of disturbance, and area are to be restored to the greatest extent practicable.
Construction Works	Progressive site stabilisation and restoration shall be undertaken during the construction process.

Stockpiling of Materials	Works are to be completed in stages (clearing, topsoil stripping, relocation of topsoil, mulching, planting etc.) and shall follow the principle of isolating stockpiles of different materials to prevent contamination. Materials and soil may be stockpiled but only on a temporary basis and provided that measures are taken to prevent adverse affects such as soil erosion, introduction of weed species, soil compaction and the like. Stockpiles are to be more than 5 meters from trees.
Nutrients Leached from Building Materials	Materials (including concrete, gravel, topsoil, etc.) shall be stockpiled in such a way as to prevent nutrients from leaching into watercourses or into ground water systems.
Protection of Trees	Trees to be protected shall be identified prior to any construction and marked appropriately. Measures are to be taken to prevent damage and disturbance to tree roots by cutting of roots, loss of water, soil compaction or buildup of soil. Clearing works are to be in accordance with any additional procedures manuals or adopted policies. Tree removal shall be subject to the provisions of Council's Tree Management Policy.
New Development Works	New development works such as construction or roads, parking areas, cycleways etc. may be undertaken where the works are consistent with the objectives of this plan of management and where any necessary approvals and assessments have been obtained.
Fill	As far as possible, no fill should be deposited on the land unless it comes from the same area of parkland and adequate measures are taken to stabilise the fill. Works are to be in accordance with any additional procedures, manuals or adopted policies.
Soil Compaction	Measures shall be undertaken to avoid soil compaction arising from construction works and earthworks. Any compaction will be relieved by appropriate methods which may include the use of soil aeration equipment.

7.4.8 Pollution Control

Pollution Control	Management should seek to ensure that no pollution is generated on the land and that adequate measures are taken to prevent adverse impacts from adjoining land.
Soil Erosion and Sedimentation	All activities are to ensure adequate controls to prevent soil erosion and sedimentation and are to be inspected periodically.
Nutrients	Measures shall be taken to minimise and to control nutrients entering watercourses, water bodies or groundwater.
Environmental Protection (noise control, dust, chemicals etc.)	Measures shall be taken during any construction or maintenance works on the land to ensure that normal environmental protection, pollution control and health guidelines are met.
Litter	Litter shall be regularly collected and removed. Provision shall be made for the provision of litter bins at various locations. It is the responsibility of all users to ensure that the area and surrounds are left in a tidy manner after use.

Rubbish Dumping	Rubbish dumping is not permitted. Grass clippings or garden waste is to be disposed of in a manner that does not affect natural vegetation or encourage the spread of weeds.
Irrigation	Irrigation is to be managed on any grassed or mown areas to avoid runoff and a raised water table.
Noise	Noise from events shall be required to comply with noise pollution control requirements in accordance the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Noise Control) Regulation 2008.
Drainage	Drainage works are allowed on the land to which this Plan of Management applies. Any works are to comply with any environmental management guidelines adopted by Council to minimise the flow of nutrients and pollutants into watercourses.
Fertilisers and Pesticides	The use of fertilisers and pesticides may be permitted on land to which this Plan of Management applies, but only where no suitable alternative exists, and no adverse environmental impact is likely to occur. New landscape designs are to minimise the need for these. Notification of use must be given in accordance with Council's adopted Pesticide Use Notification Plan.
Removal of Silt	Silt shall be removed from drains and silt traps as necessary.

7.4.9 Trees Vegetation and Landscape

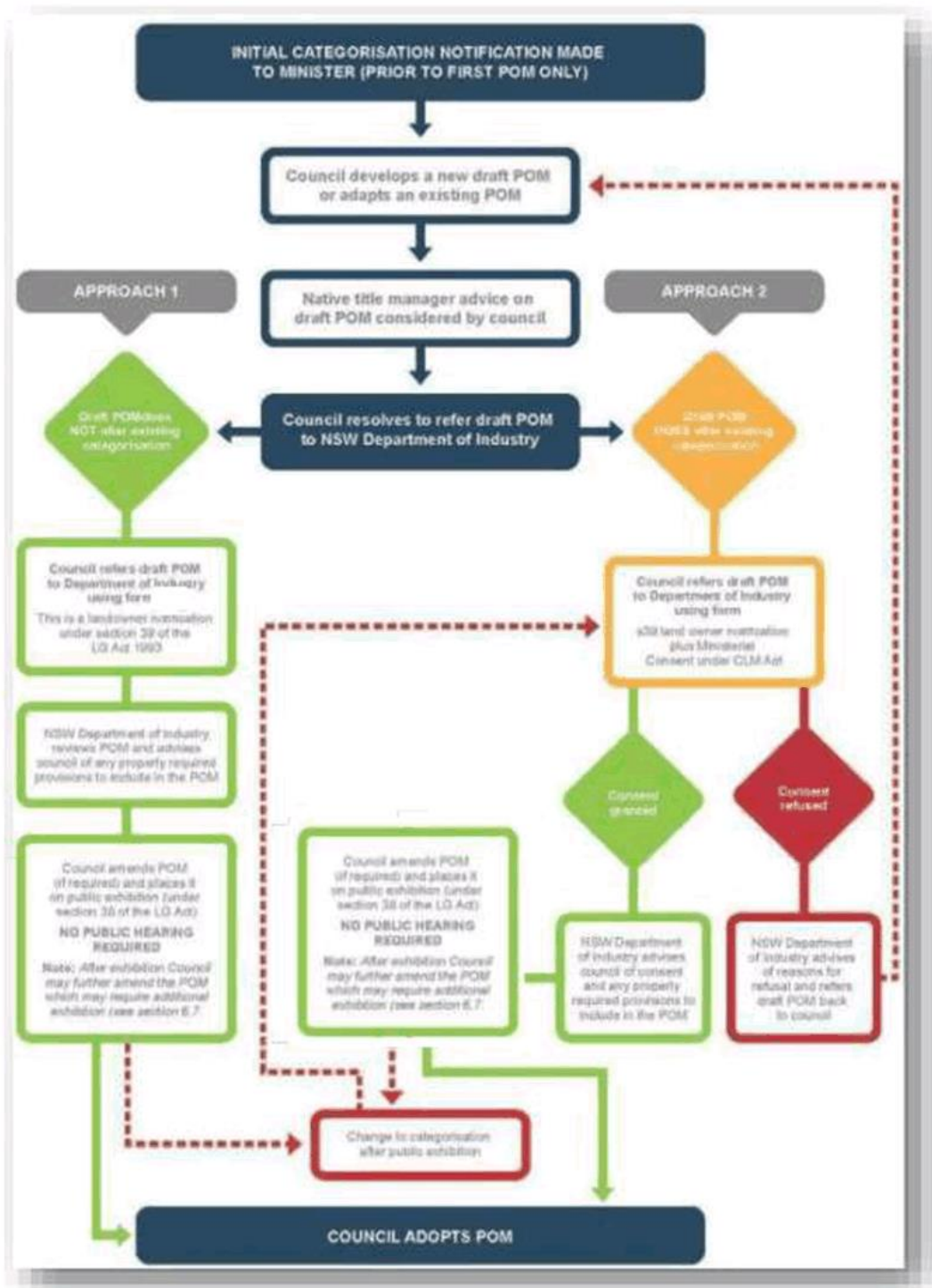
Trees, Vegetation and Landscape	Proper management of landscaping measures, trees and vegetation is important to provide a high degree of amenity on the land.
Trees	Trees will be maintained, as will maintenance of appropriate growing conditions involving management of soil compaction and other encroachments, in accordance with Council's Tree Management Guidelines in force at the time.
Tree Planting and Removal	Trees may be planted, removed, or replaced. In replacing trees, regard will be had to endorsed plans and policies outlining preferred species. Tree planting maintenance, removal and replacement shall be in accordance with adopted standards, codes, manuals, or policies.
Tree Protection	Appropriate protection such as guards and barriers shall generally be provided for all new plantings as may be required.
Landscape Design	Landscape design will be subject to approval.
Gardens	Gardens including Community Gardens may be constructed and maintained on the land. Where a Community Garden is constructed by a Community group or not for profit organisation, a licence may be issued. Community Gardens must be maintained to a high standard by the Community group or organisation.
Weed Control	Weed control shall be by both taking preventative measures and active control measures. Prevention of weed infestation shall be by minimising actions that disturb the ground surface and discouraging the conditions that encourage weeds. Measures shall be taken to prevent the dispersion of weeds by fill or the transport of seeds on machinery. Control measures which are acceptable include physical removal or slashing,

	accepted biological control techniques, bush regeneration, or chemical spraying where Council is satisfied that there will be no adverse residual effects and no adverse effect on human health will occur.
Bushfire Hazard Reduction	Where a bushfire hazard is identified on the land measure shall be taken to reduce the bushfire hazard.

7.4.10 Information Monitoring and Research

Information monitoring and Research	Monitoring and collection of information relating to the land to which the Plan of Management applies are important to enable good management.
Education and Research	Where a demonstrated need has been identified, an educational programme shall be developed to encourage use appropriate to the purpose to all or part of the land to which this Plan of Management applies.
Monitoring	Management arrangements shall be implemented to regularly monitor the use of the land, environmental conditions, and facilities.
Surveys	Surveys of visitation and/or satisfaction with the facilities may be undertaken to facilitate the management and use of the land.

ATTACHMENT 2 – FLOWCHART PLAN OF MANAGEMENT PROCESS





NATIVE TITLE REPORT PLAN OF MANAGEMENT - RESERVE 85835

The Crown Land Management Act 2016 – Section 8.7 (1) (d) requires that Council as Crown Land Manager obtains the written advice of its Native Title Manager prior to its approval or submission for approval of a Plan of Management for the land that authorises or permits any kinds of dealings referred to in Section 8.7.

1. The Land to which this report applies

Crown Reserve 85835 contained in Part Lot 4 Deposited Plan 729578. The Reserve is known as Waipukarau Park. Reserve 85835 was reserved from sale for the public purposes of public park and public recreation published in the Government Gazette on 1 July 1966.

Reserve 85835 is owned by the Crown and is managed by Leeton Shire Council as Crown Land Manager under the Crown Land Management Act 2016. The management and use of the land is subject to the provisions contained in the Crown Land Management Act 2016 and is not subject to any condition, restriction or covenant imposed by the owner.

2. Details of activity on Crown Land

The Waipukarau Park Plan of Management (Reserve 85835) has been prepared by Council and provides direction as to the use and management of the Reserve.

The Plan of Management is required in accordance with Section 3.23 of the Crown Lands Management Act 2016 and Section 36 of the Local Government Act 1993.

The Plan of Management outlines the way the reserve will be used and provides the framework for Council to follow in relation to the Leasing, Licencing and Permit processes for the land.

The Plan of Management also provides for the granting of easements over the land and the further development of the land, buildings and infrastructure on the land.

The Plan of Management provides strict guidelines such that each activity requires a Native Title Assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager prior to the commencement or approval of that activity.

The Plan of Management is clear that the management of those activities that could be considered to be a future act must take into account the reserve purpose for the land.

Accordingly, the activities authorised under the Plan of Management could be validated under Subdivision J of the Native Title Act 1993.

2a. Is the activity a future act?

The Plan of Management provides authorisation for the granting of Leases, Licences and other Estates over the land and the granting of easements and further development of the land, buildings and infrastructure on the land provided that they are in accordance with or ancillary to the reserve purpose of the land. These activities could be considered to be a Future Act within the meaning of Section 233 of the Native Title Act 1993.

2b. If it is, why? If it is not, why not?

The activities authorised under the Plan of Management could be considered to be a Future Act, within the meaning of Section 233 of the Native Title Act 1993.

3. If the activity is a future act, which of the following subdivisions of the future act regime under the Native Title Act 1993 validate it?

The authorisation of the activities that could be considered a future act within the Plan of Management provides for the activity to be carried out in accordance with the reserve purpose of the land.

The Plan of Management does not provide authorization for any activity that is not in accordance with the reserve purpose of the land.

Accordingly, the activities could be validated under Subdivision J of the Native Title Act, 1993.

6. Requirements to notify any representative body.

The Plan of Management provides strict guidelines such that each activity requires a Native Title Assessment and validation under the Native Title Act 1993 to be carried out by Council's Native Title Manager prior to the commencement or approval of that activity.

Notification will be assessed on a case by case basis and parties will be notified when an activity is assessed.

As the Plan of Management authorises activities that could be considered to be future acts within the meaning of Section 233 of the Native Title Act 1993. Council will notify NTSCorp and the Leeton Aboriginal Land Council prior to carrying out an activity.

Subdivision J

Requirement	Section 24JA	Requirement satisfied
The reservation was created on or before 23 December 1996; and	s. 24JA(1)(a)	Yes
The reservation was valid; and	s. 24JA(1)(b)	Yes
The creation of the reservation was done by the Crown (the Commonwealth or State); and	s. 24JA(1)(c)	Yes
The whole or part of any land or waters under the reservation was to be used for a particular purpose; and	s. 24JA(1)(d)	Yes
The issue of the licence is done in good faith under or in accordance with the reservation, or	s. 24JA(1)(e) (i)	Yes
in the area covered by the reservation, so long as the act's impact on native title is no greater than the impact that any act that could have been done under or in accordance with the reservation would have had.	s. 24JA(1)(e) (ii)	

Summary:

The Plan of Management authorises activities that could be considered as future acts within the meaning of Section 233 of the Native Title Act 1993.

The Plan of Management provides that those activities are only to be authorised if they are in accordance with or ancillary to the reserve purpose of the land.

Those activities that are consistent with the reserve purpose of the land may be validated under Subdivision J if the land was subject to a reservation created prior to 23 December 1996 and the reservation was done by the Crown.

Therefore requirements of s.24JA(1) (a) – (e) are met.

s. 24JA(1)(a) is satisfied as the relevant land was subject to a reservation created before 23 December 1996.

The reservation for Public Recreation and Public Park was gazetted on 1 July 1966.

s. 24JA(1)(b) is satisfied as the Reserve was notified in the Government Gazette.

The reservation was published in the Government Gazette on 1 July 1966.

s. 24JA(1)(c) is satisfied as the reservation was carried out by the Crown under the provision of the Crown Lands Consolidation Act, such reservation has been carried out by a statutory power, exercised by the Minister on behalf of the Crown.

The published reservation was notified in pursuance with s.28 of the Crown Lands Consolidation Act, 1913.

s. 24JA(1)(d) is satisfied as the land was to be used for a specific purpose being a reservation under the Crown Lands Consolidation Act which reserved the land from sale.

The land has been used for the specific purpose in accordance with the reservation of Public Park/Public Recreation.

s. 24JA(1)(e) (ii) is satisfied as the adoption of a Plan of Management that authorises activities to be done in accordance with the reserve purpose in the area covered by the reservation, so long as the act's impact on native title is no greater than the impact that any act that could have been done under or in accordance with the reservation would have had.

The Plan of Management provides that activities on the land are only to be authorised if they are in accordance with or ancillary to the reserve purpose of the land.

Donna O'Bryan

**Donna O'Bryan
Native Title Manager
Leeton Shire Council**

ACTIVATION MATTERS

ITEM 8.14 LEETON EARLY LEARNING CENTRE EXPANSION PROJECT

RECORD NUMBER	22/15
RELATED FILE NUMBER	EF21/237
AUTHOR/S	Manager Visitor Services and Local Activation
APPROVER/S	Group Manager Shire Activation

SUMMARY/PURPOSE

The purpose of this report is to seek Council's approval to expand the Leeton Early Learning Centre (LELC) which is operated by Council in Valencia Street Leeton.

The proposal enables the project to be "shovel ready" for potential funding opportunities while targeting to be operationally ready for the start of 2023.

RECOMMENDATION

THAT Council:

1. Approves the expansion of the LELC project with a view to opening the additional classroom in 2023.
2. Continues to pursue grant funding opportunities, where available.
3. Approves further council funding of up to \$300,000 in addition to the \$200,000 allowed for in the 2021/22 Budget for the project if grant funding is not forthcoming by 1 July 2022. Such funding is to be repaid from funds generated by the LELC.
4. Approves the General Manager to determine the source of funding (ie cash reserves or loans) and to execute any documentation in relation to that funding.

REPORT

(a) Background

The provision of childcare services is a Key Priority Area as approved within Council's Delivery Program. A Project Control Group (PCG) has been established to assess options to expand the LELC and the places available to the community.

The current operations and approved capacity of the LELC are:

- 68 children per day
- Monday – Friday from 7.45am to 5.45pm.
- 50 weeks per year
- Services include:
 - Nursery Room (0-2 years)
 - Toddler Room (2 – 3 years)
 - Preschool Room 1 (3-4 Years)
 - Preschool Room 2 (4-5 years)

As presented to the Councillor workshop on 27 October 2021, the waiting list for places at the LELC is greater than 100 children with the bulk of the demand being in the 0 – 3 years range. Other childcare services within the area include:

- Goodstart Leeton
 - Approved for 56 places
 - Reported to be at capacity with a waiting list.
- Leeton private operators
 - Family day care providers (e.g. Western Riverina Family Day Care)
- Narrandera Childcare Centres
 - Narrandera Preschool Early Childhood Centre (39 places)
 - Bright Horizons Australia Childcare (85 places)
 - Narrandera TAFE Children's Centre (22 places)

Council has received several reports of Leeton families utilising Narrandera childcare services due to lack of available places. Council is currently working with a developer who is in the process of submitting development application for a 80 -100 place facility at 39-45 Brobenah Road.

It should also be noted that Leeton Preschool, which is located next door to the LELC, provides places for children in the 3 to 5 years age. The preschool increased from 60 to 80 approved places in December 2021. It is reported that the current waiting list for Preschool is approximately 100 places.

The 2019 NSW Government population projections forecast is that Leeton Shire's population will increase by approximately 1,300 people by 2041, the key driver being births in the range of 700 to 750 children per year.

Childcare will become more affordable from March 2022 onwards as the subsidy cap which limits the level of government support per child will be removed. It is possible that with improved affordability of childcare demand for places may increase further.

The levels of current demand and waiting lists for childcare, combined with the NSW population projections indicate that Leeton will continue to require greater numbers of childcare places over the next 20+ years. Businesses in the area are reporting work force shortages which is an impediment to continued growth of the local economy. Improving the availability of childcare places is a critical service to enable parents to return to work.

(b) Discussion

Key considerations for this project include:

- Timing
- Expansion size.

Timing

The timing of the project has been structured to provide 2 key milestones:

1. Ensure that the expanded facility is operationally ready for the commencement of 2023.
2. Provide a “shovel ready” project, thereby providing the best chance of securing any potential grant funding opportunities during the federal election cycle.

	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23
Project Management												
Project approval												
Call for tenders												
Tender evaluation												
Dept Education approval + 20												
Construction												
Centre operational												
External Environment												
Expected federal election												
Grant Funding Opportunity												

Expansion Size

While demand for childcare places would justify a range of additional places that the LELC could provide, the expansion has been planned for the addition of 20 places. The key drivers for selecting this number of additional places are:

- Utilisation – the addition of 20 places fully utilises the additional classroom added to the facility.
- Available land – within the existing land footprint of the LELC, there is only available space for a single additional classroom building. Council is in the process of expanding the boundary of the LELC into Waipukarau Park. It is planned to enhance the functionality of the facility by using the additional land space as playground area.
- Staffing – as detailed the in the project risks, securing qualified staff can be difficult. The additional staffing ratios required for any increase greater than 20 places would vary the financial viability of the project at this point.

(c) Options

1. That Council:
 - a. Approves the expansion of the LELC project with a view to opening the additional classroom in 2023.
 - b. Continues to pursue grant funding opportunities, where available.
 - c. Approves further council funding of up to \$300,000, in addition to the \$200,000 allowed for in the 2021/22 Budget for the project if grant funding is

not forthcoming by 1 July 2022. Such funding is to be repaid from funds generated by LELC.

- d. Approves the General Manager to determine the source of funding (ie cash reserves or loans) and to execute any documentation in relation to that funding.

This is the recommended option.

2. That Council proceeds as per the 2021/22 voted budget, \$200,000 council funded and \$300,000 grant funded, noting the January 2023 opening will be delayed.
3. That Council does not approve the project.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

Capital Funding Required

The funding required for the project is \$450k. The details of the budget include:

Demountable building (delivered)	\$235k
Storage shed	\$ 29k
Covered learning area (COLA)	\$ 16k
Shade structures X 2	\$ 12k
Plumbing, electrical and fencing	\$ 76k
Ancillary costs (furniture, etc)	\$ 34k
Contingency (12%)	\$ 48K
Total	\$450k

The building structure has been costed as a demountable to reduce both costs and improve delivery lead time as builders in the local region have construction lead times of 12 – 18 months from confirmation of order.

Operational Performance

A financial cash summary is included below for the period 2018 Actual through to the budgeted result for 2022. It should be noted that 2020, 2021 and budget 2022 are abnormal operating periods due to additional government funding aimed at keeping the facility operating for essential workers during Covid-19.

LELC - CASH OPERATING RESULT							
		2018	2019	2020	2021	2022	
		Actual	Actual	Actual	Actual	Budget	Forecast
Approved places		52	53	58	58	68	88
Income	\$k	1,336	1,325	1,528	1,820	1,762	2,369
Wages Costs	\$k	(1,076)	(1,072)	(1,241)	(1,280)	(1,239)	(1,806)
Operating Costs	\$k	(174)	(170)	(173)	(181)	(208)	(218)
LSC Cost/Recovery	\$k	(91)	(32)	(35)	(102)	(104)	(104)
Other Costs	\$k	(10)	(8)	(9)	(6)	(17)	(33)
Total Costs	\$k	(1,351)	(1,282)	(1,458)	(1,568)	(1,568)	(2,162)
Gross Profit/(Loss)	\$k	(15)	42	70	252	194	207
\$450k loan Funding	\$k						(101)
Nett Profit/(Loss)	\$k	(15)	42	70	252	194	106

The forecast for increasing to 88 places indicates that the LELC will be able to self-fund the project via borrowing over a 5-year term if that is determined to be the source of funding (refer below).

The improved performance is attributable to be additional places generating a higher financial result (revenue – expenses), across the same fixed costs of operating the facility. The fixed costs for the LELC include the LELC management team, administrative costs, council rates and overheads.

Source of Funds

The LELC expansion was budgeted for delivery during the 2021/22 financial year. It was budgeted as being funded by a combination of Council contribution and grant funding. To date an appropriate grant funding source has not materialised. An expression of interest (EOI) was submitted to the National Priority Fund in August 2021, however the application under that fund remains under consideration with no further updates available to date.

Source of Funds	2021/22	2022/23					
	Budget	Budget Approval					
Grant Funding	\$300 k	\$250 k		\$0 k		\$0 k	
LSC (reserve)	\$200 k	\$200 k	or	\$200 k	or	\$0 k	
LSC (Loan)	\$0 k	\$0 k		\$250 k		\$450 k	
Total project	\$500 k	\$450 k		\$450 k		\$450 k	

LSC Loan funding payment options

Loan Funding	\$k	\$200 k	\$200 k	\$250 k	\$250 k	\$450 k	\$450 k	\$450 k	\$500 k
Interest Rate	%	2%	4%	2%	4%	2%	4%	4%	4%
Term Years	yrs	10	10	10	10	10	10	5	5
Payment	\$k/yr	\$22 k	\$25 k	\$28 k	\$31 k	\$50 k	\$55 k	\$101 k	\$112 k

Given that the forecast financial performance of the LELC is greater than \$150k per year once the operation is increased to 88 places, looking at a range of loan funding options including interest rate, loan amount and payment term variations, the expansion project would be self-funding. It should be noted that in the event that final tender costs escalated from the forecast \$450k to \$500k, the project would still be self-funding over a 5 year loan term.

(b) Policy

Nil

(c) Legislative/Statutory

An application to the Early Childhood Education Directorate (ECED) of the NSW Department Education Department will need to be lodged to increase the approved places from 68 to 88 children. Applications to amend the provider approval for childcare centres are made under the *Children (Education and Care Services) Supplementary Provisions Act 2011* and take up to 60 days to be processed.

(d) Risk

- Government funding – there is a risk that external funding will not be available or secured within the desired timeframe. The expansion increases the financial results of the LELC, meaning that the project can justify Council either self-funding or debt funding the project.
- Staffing – increasing the approved places by 20 children will require up to an additional 5 staff depending on the final age group profile and regulated supervision requirements. The break down of the additional staffing requirements would be:
 - 1 teaching role (degree qualified)
 - 3-4 educators (certificate or diploma qualified)Securing degree qualified staff is usually more difficult, while certificate/diploma qualified educators can be more easily recruited. In addition to recent recruitment efforts, LELC has established a work experience pathway program for childcare services with both Leeton High School and St Francis College.
- Approval delays – the targeted availability of the additional 20 places is the start of 2023. Delaying the approval of the project would:
 - Delay the commencement date of the service to the community.
 - Potentially miss out on funding opportunities during the federal election cycle. Having a project that is “shovel ready” will maximise the likely hood of funding success when/if applying for grants.

CONSULTATION

(a) External

The PCG completed a Communications and Engagement Plan for the project which has identified a number of stakeholders/audiences for the project. Pending Council approval, the expansion project will be available for public consultation and communicate key project messages for a period of 30 days via:

- Storypark (communications app with existing LELC parents)
- LELC waiting list families
- LSC survey – *Have your say*
- Direct submission

(b) Internal

Senior Management Team

Manager Finance

LELC Expansion PCG including:

- LELC Manager
- Manger Visitor Services and Local Activation
- Economic and Strategic Development Manager

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome One: A HEALTHY AND CARING COMMUNITY within Council's adopted Delivery Program/Operational Plan – 2 - A community that embraces lifelong learning - 2a - Provide a range of quality and affordable education opportunities from early childhood to adult learning - Operate Leeton Early Centre (LELC), including investigating options for expansion.

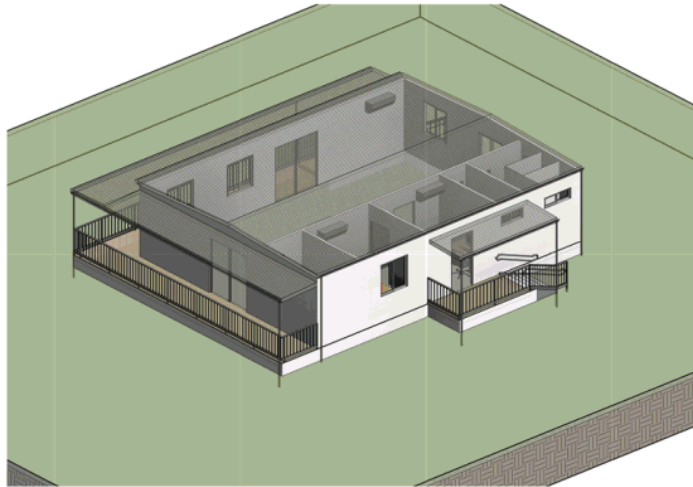
ATTACHMENTS

[1](#)  LELC EXPANSION PLAN

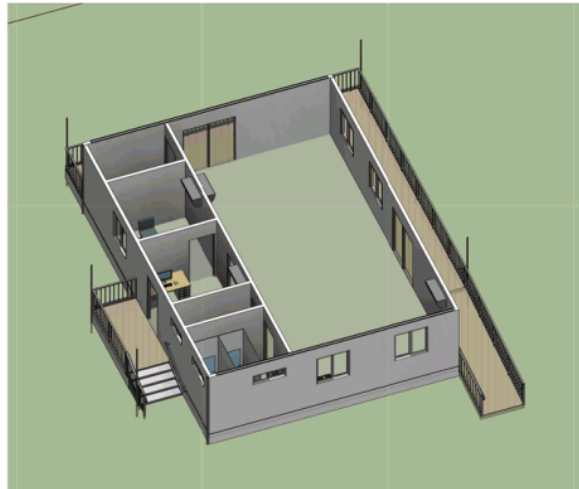
[2](#)  LELC EXPANSION - INDICATIVE DESIGN

LELC EXPANSION PLAN





1 3D General



2 3D A General GF

Drawing List	
Sheet Number	Sheet Name
A-001	3D
A-001	Cover
A-002	Ground Floor
A-003	Elevations
A-004	Roof



3 Loc. GF
 1:200

General Notes
 This drawing shall not be scaled.
 This drawing is to read in conjunction with the specification.
 All dimensions as shown on drawings, shall be checked and verified by the builder before any construction or fabrication is commenced.
 Any proposed amendments or variation to original drawings shall be discussed and approved by the architect.
 All structural elements shall be designed and certified by the structural engineer.



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Issue	Rev	Description	Date

Leeton

Status
 Concept

Drawing content
 Cover

Scale Date
 1:200 @ A1 14.09.2021

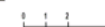
Client Approval

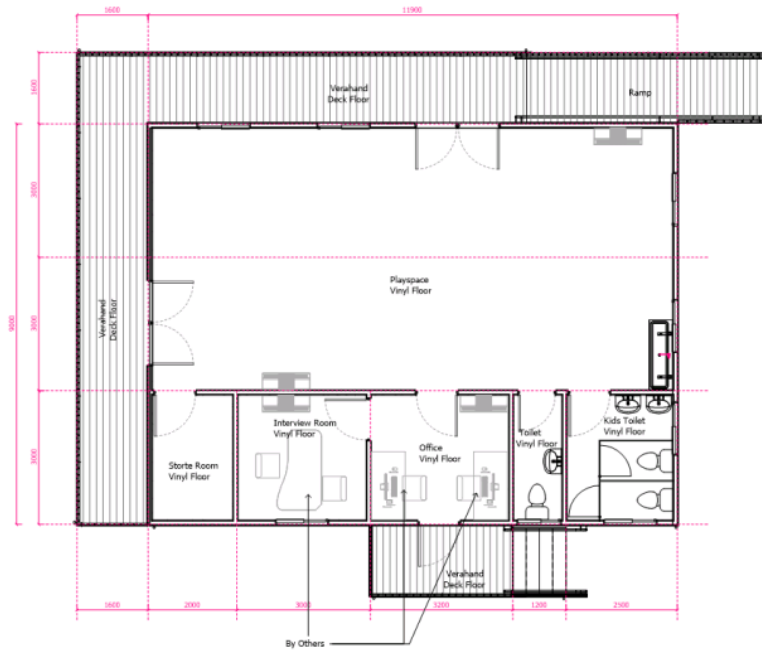
Sign: _____

Date: _____

Drawing No.
 A-001.

Issue No.





1 GF
 1:50

General Notes
 This drawing shall not be scaled.
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Issue		
Rev	Description	Date

Leeton

Status
 Concept

Drawing content
Ground Floor

Scale Date
 1:50 @ A1 14.09.2021

Client Approval

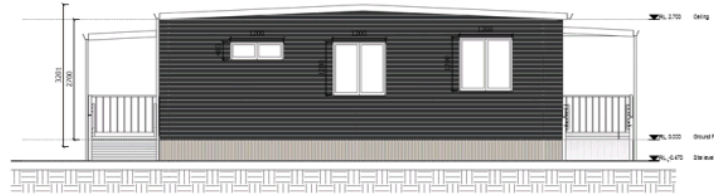
Sign: _____

Date: _____



Drawing No.
A-002

Issue No.



1 North Elevation
1:50



2 South Elevation
1:50



3 West Elevation
1:50



4 East Elevation
1:50

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 All dimensions as shown on drawings, shall be checked and verified by the builder before any construction or fabrication to be commenced.
 Any proposed amendments or variation to original drawings shall be discussed and approved by the architect.
 All structural elements shall be designed and certified by the structural engineer.



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Issue		
Rev	Description	Date

Leeton

Status
 Concept

Drawing content
Elevations

Scale Date
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Client Approval

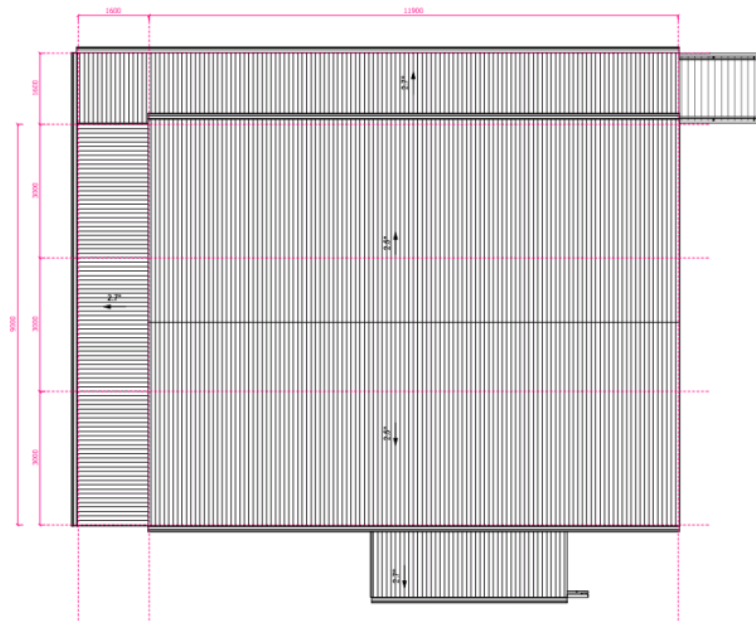
Sign: _____

Date: _____

Drawing No.
A-003

Issue No.





1 Roof Top
 1:50

General Notes
 This drawing shall not be scaled.
 This drawing is to read in conjunction with the specification.
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 Any proposed amendments or variation to original drawings shall be discussed and approved by the architect.
 All structural elements shall be designed and certified by the structural engineer.



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Issue		
Rev	Description	Date

Leeton

Status
 Concept

Drawing content
Roof

Scale Date
 1:50 @ A1 14.09.2021

Client Approval

Sign: _____

Date: _____



Drawing No.
A-004

Issue No.

**ITEM 8.15 DEFERRED DEVELOPER CONTRIBUTIONS POLICY - COMMUNITY
 FEEDBACK**

RECORD NUMBER	22/10
RELATED FILE NUMBER	EF21/25
AUTHOR/S	Group Manager Shire Activation
APPROVER/S	General Manager

SUMMARY/PURPOSE

The purpose of this report is to seek Council's endorsement of the Developer Contributions Deferred Payment Policy following public exhibition and feedback.

RECOMMENDATION

THAT Council adopts the updated Developer Contributions Deferred Payment Policy.

REPORT

(a) Background

Council collects developer contributions as permitted under Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The purpose of these contributions is to provide Council with funds to invest in upgrading infrastructure, services, recreation and community facilities to support the growth of the developed areas.

Developers have previously presented to Council that the developer contribution can be an impediment to the rate of development growth and therefore of our area.

A key strategic goal in the Delivery Program and Operational Plan is item 5b.01: "To undertake and promote housing development across Leeton Shire, including Council-owned land."

As presented to Council in September 2021 the purpose of the policy is to facilitate large scale residential land or subdivision development by:

- Supporting the provision of sufficient supply of development ready land, to meet housing demand
 - Assisting the progression of large-scale subdivision development that may not occur without financial assistance
 - Ensuring that new subdivision development is appropriately designed to respond to reasonably expected future infrastructure needs and avoid future adverse impacts upon other development
-

- Encouraging developers to create new subdivisions to meet the increasing demand for housing in the Shire by more effectively matching development infrastructure contributions to their cashflow receipts as lots are sold rather than being required to pay the contribution up front.

The policy was adapted from a similar policy adopted by Temora Shire Council in June 2021.

In summary the key items of the proposed draft policy were:

- An initial deposit of \$50,000.
- Enable the developer to defer payment of any remaining balance until the blocks in the subdivision were sold. Payments would be made as each block is sold, thereby matching the expenditure to the income for the developer.
- The outstanding fees payable would be secured by holding a caveat over the unsold lots in the subdivision and payable as lots are subsequently sold, thereby releasing the caveat on those lots.
- Outstanding or deferred contributions would attract a 3% administration fee to account for interest and processing costs.
- Any deferred contribution balance on unsold allotments could be deferred for a maximum of 10 years, at which time the balance on any contribution on those unsold allotments must be paid, thereby enabling Council to release any remaining caveats on those allotments.

(b) Discussion

Community feedback:

Feedback following the community consultation period included:

- General support for initiatives that stimulate land development.
- The payment of an initial deposit was challenged.
- A question regarding what happens if the developer is placed into administration.
- Criticism of Council's efforts to stimulate land development to date.
- Allegation that Council was not legally able to make the decision due to the Caretaker Period prior to an election.

Staff response:

The developer contribution is a statutory charge under the *Environmental Planning and Assessment Act 1979*. As any unpaid developer contribution will be secured by registering a caveat over the land, the outstanding balance is a secured creditor which will be prioritised over other creditors affected by any insolvency event on behalf of the developer and will be required to be paid prior any land sale process as part of the insolvency.

The initial deposit limit has also been reviewed based upon a recent 66 lot subdivision off Karri Road in Leeton. The details of the developer contributions payable were therefore:

- Total developer contribution of \$21,120.
- Further developer contributions of \$3,500 per dwelling (circa \$231k) would be payable as the individual allotments are developed. These amounts are therefore already deferred to the time of development of each allotment.

Based on this example, it is considered unlikely that a subdivision would have initial development costs greater than \$5,000,000 which would result in a total contribution payable of greater than \$50,000, thereby enabling an amount to be deferred. (i.e. any amount greater than the \$50,000 initial deposit in the draft policy).

As a result, to encourage residential land development, it is recommended that the requirement for a minimum deposit to be paid be removed and as allotments are progressively sold that the developer contribution be paid at that time to enable release of Council's caveat over the land.

There were no legal impediments to the adopting the policy. It should be noted that:

- The submission is incorrect in that the policy was presented for Council's consideration at the 22 September 2021 meeting, which was prior to the caretaker period with commenced on Friday 5 November 2021.
- The purpose of the caretaker period is to prevent Council from entering into major decisions that bind a new Council. As the policy could be rescinded by a new Council and only affects the timing of a receipt and not the amount of the revenue to council, when combined with the financial impact of the policy on Council's financial position, approval of the policy would have been an allowable item for Council's consideration in the normal course of conducting the business of Council during the caretaker period.

Future consideration:

Another alternative to stimulate residential land development may include the implementation of an initial rate free period (12 months) for developers on unsold allotments. This will be considered further and if recommended a draft policy will be put forward for Council's consideration.

(c) Options

1. Adopt the updated Developer Contributions Deferred Payment Policy as presented. **This is the preferred option.**
2. Adopt the updated Developer Contributions Deferred Payment Policy with amendments.
3. Not adopt the updated Developer Contributions Deferred Payment Policy.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

The financial impact of the updated Developer Contributions Deferred Payment Policy is the time value of the delay in collecting any deferred amount. This is partially offset by the 3% annual administration fee collected on the deferred amount payable.

As stated above the amount payable as a developer contribution is likely to be less than \$50,000 per development/subdivision. It is considered unlikely that more than a few subdivisions would be released in any one year. Therefore, the probability of any deferred balance having a material effect on Council's cashflow management is estimated to be extremely low.

(b) Policy

Leeton Shire Council Section 94A Fixed Levy Plan.

The rates applicable in the plan are:

- 0.5% where the proposed cost of the development is between \$100,001 and \$200,000.
- 1% where the proposed cost of the development exceeds \$200,000.

(c) Legislative/Statutory

Environmental Planning and Assessment Act 1979

Section 94A contributions have been updated and are now referred to as Section 7.12.

(d) Risk

The risks identified in the initial proposal of the policy included:

- Non-payment
- Cash flow
- Reputation

There is no update to the risks identified as a result of the community consultation and updates to the policy.

CONSULTATION

(a) External

The draft policy was placed on public exhibition for community consultation for 30 days with submissions closing on 22 October 2021. The feedback received included:

- *Have your say survey* – 10 responses.
- Written contributions – 2 responses. Note that 1 response was submitted directly to Councillors after the public exhibition period, and not via Council's formal submission process.

(b) Internal

Senior Management Team
Manager Planning, Building and Health

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome One: A HEALTHY AND CARING COMMUNITY within Council's adopted Delivery Program/Operational Plan – 5 - A community that enjoys good housing - 5 b - Expand the range of residential opportunities across the Shire - Undertake and promote housing development opportunities across Leeton Shire, including on Council-owned land.

ATTACHMENTS

- 1 [↓](#) Updated Deferred Developer Contribution Policy V2
- 2 [↓](#) Developer Contributions Deferred Payment Policy - Have your Say
- 3 [↓](#) Deferred Developer Contribution feedback - F.Porcu
- 4 [↓](#) Deferred Developer Contribution feedback - G.Stoll



LEETON
SHIRE COUNCIL

**DEVELOPER
CONTRIBUTIONS DEFERRED
PAYMENT POLICY**

FEBRUARY 2022

DOCUMENT CONTROL

POLICY NUMBER:					
RESPONSIBLE OFFICER:	Manager Building, Planning and Health				
REVIEWED BY:	Group Manager Shire Activation				
LINK TO CSP/DELIVERY PROGRAM/OPERATIONAL PLAN:	CSP 17d.01 Receive and assess development and subdivision applications				
DATE ADOPTED:					
ADOPTED BY:					
RESOLUTION NO: (IF RELEVANT):					
FOR PUBLICATION:	<input type="checkbox"/> INTRANET <input type="checkbox"/> COUNCIL WEBSITE <input type="checkbox"/> BOTH				
REVIEW DUE DATE:					
REVISION NUMBER:					
PREVIOUS VERSIONS:	DATE	DESCRIPTION OF AMENDMENTS	AUTHOR/EDITOR	REVIEW/SIGN OFF	MINUTE NO (IF RELEVANT)
Draft	Aug 2021	Draft policy for community consultation	AR		21/335
V2	Feb 2022	Updated policy for adoption	AR		

REVIEW OF THIS POLICY

This Policy will be reviewed every 4 years or as required in the event of legislative changes. The Policy may also be changed as a result of other amendments that are to the advantage of Council and in the spirit of this Policy. Any amendment to the Policy must be by way of a Council Resolution or the approval of the General Manager.

CONTENTS

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2. Scope.....	4
3. Outcomes.....	4
4. Roles and Responsibilities.....	5
5. Definitions	5
6. Legislation and Supporting Documents	6
7. Procedure.....	6
7.1 Application Procedure	6
7.2 Operational Procedure	6
7.3 Legal Protections	6

Appendix 1 : Application for Developer Contributions Deferred Payment

1. Purpose

The purpose of this policy is to:

- Support the provision of a sufficient supply of development ready land for residential purposes.
- Assist the progression of large-scale subdivision development that may not occur without financial assistance.
- Encourage developers to create new subdivisions to meet the increasing demand for housing in the Shire by more effectively matching development infrastructure contributions to their cashflow receipts as lots are sold rather than being required to pay the contribution up front.

2. Scope

This policy applies to the Section 7.12 Development Contributions, formerly known as Section 94A contributions that are payable to Council.

The opportunity to defer development contribution payments is restricted to the development of new residential subdivisions and/or urban blocks that will be offered for sale by the developer as either undeveloped lots of land or, alternatively, built upon and then immediately sold by the subdivision developer. The policy applies across the entire Shire.

Council offers this scheme to all developers of urban residential land, to be assessed on a case-by-case basis. The qualifying conditions to apply for deferral of development infrastructure payments include:

- The land being developed within the Leeton Local Government Area (LGA).
- The development will result in at least three (3) additional lots for sale.
- The proposed subdivision is permitted with consent in the land zone that applied to the subject land.
- The application for deferred payment will not be finalised until the proposal has a relevant development application approved by Council.
- The applicant agrees in writing to the legal controls that will apply to the deferred payment agreement.

The policy does not apply to the following:

- Development other than the creation of residential subdivisions and/or blocks of residential land.
- Development infrastructure that is not within the regulatory control of Council, including electricity and telecommunications infrastructure.
- All other development costs that are the direct responsibility of the developer.

3. Outcomes

This policy is intended to assist in the availability of residential land lots within Leeton LGA. The objective of this policy is for Council to assist developers and facilitate the creation and development of residential land for sale within Leeton Shire. The availability of residential land and subsequently housing is a key strategic goal for Leeton Shire as identified in Council's housing strategy.

4. Roles and Responsibilities

The responsibilities for implementing this policy include:

1. **Manager Building, Planning and Health**

The Manager will ensure that the development contribution payable has been assessed and correctly calculated and complies with *Environmental Planning and Assessment Act 1979*.

2. **Group Manager Activation**

Following application to defer the contribution by the developer, the Group Manager Activation will assess each application on a case-by-case basis and make a recommendation to the General Manager to either approve or reject the application.

The Group Manager Shire Activation will be responsible for the overall management of the scheme and quarterly reporting to Council when payments are deferred.

3. **General Manager**

The General Manager will approve or reject the application to defer development contribution in accordance with this policy.

4. **Property Coordinator and Native Title Manager**

The Property Coordinator and Native Title Manager will process and manage Council lodging and releasing caveat(s) over the lots where development contributions have been deferred.

The Property Coordinator and Native Title Manager will:

- Administer the lodgement and withdrawal of Councils interest(s) on the Personal Property Securities Register (PPSR).
- Finalise execution of the funding deed between Council and the developer.

5. **Finance Manager**

The Finance Manager will manage accounting for the deferred payment and ensure charging of interest to developer. In instances where the deferred payment amount is borrowed, the Finance Manager will manage the process with Council's financial institutions.

6. **Council**

If an unsuccessful applicant wishes to appeal the decision of Council's officer, they must do so in writing. The matter will be referred to Council for their consideration and determination.

Where an application involves Council Staff or Councillors with a partial, controlling or perceived interest in the land development, the assessment and approval of such applications will be referred to the Council for determination, or the General Manager may recommend an external assessment process.

5. Definitions

Council	Leeton Shire Council
CSP	Community Strategic Plan
DA	Development application
Developer	Individual or entity lodging the DA
LGA	Local Government Area
Section 7.12 (S7.12)	Development Contributions identified in the <i>Environmental Planning and Assessment Act 1979</i> . Formerly known as Section 94A (S94A) contributions.

6. Legislation and Supporting Documents

Environmental Planning and Assessment Act 1979
Leeton Shire Council Section 94 Fixed Levy Plan

7. Procedure

7.1 Application Procedure

Applications for consideration by Council for Developer Contributions Deferred Payment are to be completed in writing by the land developer applicant. **Refer Appendix 1- Application for Developer Contributions Deferred Payment.**

7.2 Operational Procedure

Pending approval of the application for Developer Contributions Deferred Payment the terms and conditions by which the deferment scheme will operate include:

- The **deferred payment balance** will be a function of:
 - The total development contribution payable
 - Less the deposit paid
 - Plus, any accrued administration costs of 3% per year.
 - Less any repayments received by Council to date.
- **Caveat allocation.** The amount of the deferred payment and any applicable costs will be allocated via caveat equally over the total number of lots in the subdivision.
- The **timeframe** for repayment of the deferred infrastructure payment is a maximum of ten (10) years from the date of signing the agreement, or the completed sale of all lots proposed to be delivered by the application for deferment, whichever is sooner.
- The applicant is responsible for the **administration costs** unless it is agreed to be waived by Council.

7.3 Legal Protections

The legal framework for the Developer Contributions Deferred Payment scheme includes:

- **Funding Deed**
The funding deed between Council and the Developer will outline the terms of the agreement. This will outline the mechanism for repayment. The agreement will also detail arrangements to protect the interest of Council in instances where there is a transfer of ownership of the subject land, situations where the developer falls into administration, or the subject land value becomes unviable to develop.
- **Registration of Caveat**
Council will register a caveat on the title to the land to be developed. The caveat will be shown when a title search is conducted by the purchaser's solicitor. The caveat will be released at the time of sale only when the repayment is made to Council's solicitor.
- **Registration of Security Interest**
Council will register its security interest on the Personal Property Securities Register (PPSR). Registration of the security interest will provide Council with an enforceable right in the event that the developer is placed into administration and the assets owned by the developer are disposed.



Application for Developer Contributions Deferred Payment

1. Details of Applicant/Developer

Name		
Postal Address		
Suburb or Town	State	Postcode

2. Property Description

Street/Rural Addressing Number	Street Name	
Suburb or Town	State	Postcode
Lot No	Section No	DP No

3. Related Development Consent

Development Application No	Date of Determination (if approved)
----------------------------	-------------------------------------

4. Subdivision Details

Number of Existing Allotments	Number of Proposed Allotments
-------------------------------	-------------------------------

5. Development Contribution

Development Contributions Payable	Requested Development Contributions Deferred
-----------------------------------	--

6. Owners Signatures for Consent

Owner(s) Name (List all owners)
.....
.....
.....
Owner(s) Signature (All owners to sign application form)
.....
.....

7. Notes

Note 1

Only the owner of the property or the applicant for the Development Consent can apply for Developer Contributions Deferred Payment.

Note 2

You are requested to complete this form in full with all owners/developers to sign before submitting to council for consideration.

Note 3

The application must comply with the minimum creation of at least three (3) additional lots for sale.

Note 4

The application is for land being developed for residential purposes within the Leeton Local Government Area (LGA).

Note 5

Approval is subject to Council confirming that the proposed subdivision is permitted with consent in the land zone that applies to the subject land. Application for deferred payment will not be finalised by Council until the proposal has a relevant development application approved by Council.

Note 6

The applicant must agree in writing to the legal controls that will apply to the deferred payment agreement.

Note 7

Upon approval the owner/developer of the subdivision is responsible for an initial payment of the greater amount of \$50,000 or 10% of the total development contribution payable.

- The deferred payment balance will be a function of:
 - The total development contribution payable
 - Less the deposit paid
 - Plus, any accrued interest, legal and borrowing costs
 - Less any repayments received by Council to date.

Note 8

Each application will be assessed on a case-by-case basis with all applications approved by the General Manager or Council in the case of staff or Councillors having a controlling or perceived interest in a development.

Statement of Authorisation:

In signing this form, I hereby accept the terms associated with the Developer Contributions Deferred Payment Policy.

Definition:

For the purposes of this application the following terms are defined:

- **Applicant/Owner:** means the person(s) entitled to act upon the Developer Contributions Deferred Payment and Development consent or Development Application

8 . Leeton Shire Council Approvals

I certify that the calculation of the development contribution has been correctly calculated in accordance with the Act. That following discussions with the developer that deferral of the contribution payment as allowed for by the policy would in my opinion, assist this development project to proceed.

Manger Building, Planning & Health

Date

I recommend the deferral of the development contribution in accordance with the policy. I confirm that deferral of the contribution payment as allowed for by the policy would in my opinion, assist this development project to proceed.

Group Manager Shire Activation

Date

I approve deferral of the development contribution in accordance with the policy.

General Manager


Date

Survey Responses
 23 September 2021 - 23 October 2021

Survey

Have Your Say Leeton Shire

Project: DRAFT Developer Contributions Deferred Payment Policy



VISITORS					
21					
CONTRIBUTORS			RESPONSES		
10			10		
10	0	0	10	0	0
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous



Respondent No: 1
Login: Registered

Responded At: Sep 23, 2021 15:40:59 pm
Last Seen: Sep 23, 2021 05:39:55 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

good initiative providing its well managed



Respondent No: 2
Login: Registered

Responded At: Sep 23, 2021 15:41:52 pm
Last Seen: Sep 23, 2021 05:41:07 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

Important initiative because it is very difficult to find decent blacks to build on



Respondent No: 3
Login: Registered

Responded At: Sep 23, 2021 15:49:45 pm
Last Seen: Sep 23, 2021 05:46:40 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

not answered



Respondent No: 4
Login: Registered

Responded At: Sep 23, 2021 16:18:21 pm
Last Seen: Sep 23, 2021 06:18:03 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

not answered



Respondent No: 5
Login: Registered

Responded At: Sep 23, 2021 19:53:18 pm
Last Seen: Sep 23, 2021 09:14:21 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

I don't have a problem with the deferred payment policy per se however the type of housing estate is critical. For example, Golf Club Estate which has been crammed with cheaper housing plus the subdivision has been badly designed compared to other areas such as the subdivisions Lansdowne, Isabella Place, Bella Vista Drive and surrounding subdivisions which are more spacious and appealing with ease of access for trades, residents and visitors.



Respondent No: 6
Login: Registered

Responded At: Sep 23, 2021 19:53:47 pm
Last Seen: Sep 23, 2021 09:51:58 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

A good idea. We need more housing in Leeton. The new policy will support serious developers with cash flow to get on with the next project.



Respondent No: 7
Login: Registered

Responded At: Sep 23, 2021 20:05:21 pm
Last Seen: Sep 23, 2021 10:05:08 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

not answered



Respondent No: 8
Login: Registered

Responded At: Sep 24, 2021 07:01:20 am
Last Seen: Sep 23, 2021 20:59:47 pm

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

Just generally excited about the concept and the opportunity it brings for development in Leeton. Housing shortage is critical & easing the burden to develop will be a win-win for the all involved- particularly the Leeton community.



Respondent No: 9
Login: Registered

Responded At: Sep 24, 2021 08:21:15 am
Last Seen: Sep 23, 2021 22:16:04 pm

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

What is the plan for any development lots that may go into administration?



Respondent No: 10
Login: Registered

Responded At: Oct 09, 2021 19:08:27 pm
Last Seen: Oct 09, 2021 08:04:20 am

Q1. Do you have any feedback on Council's DRAFT Developer Contributions Deferred Payment Policy? If so, please share your thoughts with us below.

I think it is a sensible idea and seems to be well thought out. The matter of interest on the deferred payment amount is mentioned as being calculated by the Finance Manager - my question is, what is that interest rate based on? Uncertainty around the potential for interest accrual could be a deterrent to the uptake of the policy. I can see that administration fees of 3% are also included. It seems that 3% is already a good amount - given the small margins of low density residential development, a fixed rate like that is quite a lot already. Apart from that I think the policy is clear.



FELIX JOINERY TIMBER & HARDWARE PTY LTD
2 RAILWAY AVE
LEETON NSW 2705
Phone: 6953 6422

FRANK PORCU
LICENCE NO: 139385C
ABN: 46 109 026 771

22nd October 2021

Leeton Shire Council
23-25 Chelmsford Place
LEETON NSW 2705

**LEETON SHIRE COUNCIL – DRAFT DEVELOPER CONTRIBUTIONS DEFERRED
PAYMENT POLICY**

TO WHOM IT MAY CONCERN

Thank you for forwarding on your proposal for the deferring of the developer's contributions, we would like to make the following comments in regards to your proposal.

PURPOSE: A submission from the development draft, as we see it as thinly veiled, not support but disguised as support.

This proposal of a loan is something we see as unacceptable; we can proceed with a bank loan rather than a Council Loan.

SCOPE: We understand the scope and we have don't have any problem with the scope development.

OUTCOMES: We believe the outcome for developers is to see a greater and better result for developments to move forward.



ROLES AND RESPONSIBILITY: In a democratic society, I find it most concerning that we revert back to a dictatorship for a single person to become the arbiter of the development, to be the rejector or acceptor we find this most unacceptable and a different method sort, a committee with greater transparency would be recommended.

The time costs of finding better methods to help developers have been wasteful, non-progressive and a great hinderance to existing developers, rather than looking for a better scope to help new developers. We expect nothing more to come of this, as per the last 5 years of non-action, it would have been helpful for existing developers to be looked after, rather than the hinderance that has occurred.

We hope that Council will look at these points of interest and consider our local people when moving forward with a decision on developments.

Yours sincerely

Frank Porcu
Managing Director

2 November 2021

Dear Councillor Ciccia

RE: Proposed Deferred Developer Contributions Policy

I am writing to you in relation to the consideration by Council of the draft deferred developer contributions policy that was recently advertised. Whilst a policy that will encourage residential development is to be applauded, the proposed policy as presented appears to be restrictive and complicated and as such needs the careful consideration by Council.

The proposed policy presents as a commercial loan based scheme requiring the approval of 5 separate staff members, the payment of an upfront deposit of the greater amount of \$50,000 or 10% of the developer contributions plus administration costs of 3% a year. However, these requirements seem extremely restrictive and will result in a deposit of \$50,000 being paid by the developer in almost all situations in order to have their contributions deferred.

Generally, developer contributions consist of a s.7.12 planning levy equal to 1% of the development cost (less land) plus water, sewer and stormwater contributions of up to a maximum of \$7,367 per lot.

For example, a 65 lot subdivision having a development cost of \$3.5m would pay a total of approximately \$513,855 in contributions (s.7.12 levy \$35,000 and contributions = 65 x \$7367). 10% of this amount is \$51,385.50.

I have also been informed by a number of builders, real estate agents and developers who attended meetings in 2019 to discuss this matter, that a meeting to outline and explain the proposed policy has not yet occurred despite assurances that a follow up meeting would be held to present any proposed policy.

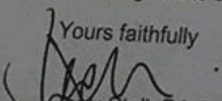
Further the decision to consider this draft policy at the November 2021 Council meeting appears to be legally questionable. Despite the wording of s. 393B of the Local Government Regulations, the guidelines and expectations of the Office of Local Government require that councils must assume a caretaker role at least one month prior to any council election to ensure that major strategic decisions are not made which will limit the actions of the incoming council. The caretaker role for councils prior to the 2021 elections begins on the 4th November 2021.

Leeton is not in a position where developers knock down the council door to develop residential land and therefore council should adopt a proactive innovative culture to promote this development, and not totally rely upon a commercial, risk adverse approach.

Councillors should be aware that following the meetings that were held in 2019 with developers to discuss the deferment of developer charges, a report was presented to senior staff in early 2020, outlining a simple legally binding process that is used by a number of other councils to defer developer contributions applying to residential lots which defers payment until the lot is actually sold, rather than upfront or via a complicated system requiring the payment of at least \$50,000.

I would therefore urge Councillors to consider re-visiting this draft policy in 2022 so that consideration can be given to a policy that will achieve what council is actually setting out to achieve.

Yours faithfully



Garry Stoll BA App Sc (Env Planning) MA Local Gov Law MBA
100 Almond Road Leeton

**ITEM 8.16 NOMINATION OF PANEL MEMBERS FOR THE WESTERN REGION
REGIONAL PLANNING PANEL**

RECORD NUMBER	22/2
RELATED FILE NUMBER	EF21/278
AUTHOR/S	Manager Planning, Building and Health
APPROVER/S	Group Manager Shire Activation

SUMMARY/PURPOSE

Under the *Environmental Planning and Assessment Act 1979*, certain development applications are required to be considered by a Joint Regional Planning Panel (JRPP) made up of NSW Government (3 members) and council appointees (2 members).

Leeton Shire Council received notification from the Planning Secretariat, that new panel members are to be appointed, following the recent Council elections in December 2021.

The purpose of this report is to nominate at least two panel members to represent Leeton Shire Council. At least one member must have expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

RECOMMENDATION

THAT Council:

1. Appoints Cr Weston and Cr Morris as Leeton Shire Council members of the Western Joint Regional Planning Panel (JRPP) for a 3-year term commencing 24 February 2022.
 2. Appoints Mr Emerson Doig and Mr Greg O'Callaghan as alternate members representing Leeton Shire Council on the Western JRPP for a 3-year term commencing 24 February 2022.
 3. Approves a sitting fee of \$300 per day in cases where an appointed community member represents Leeton Shire Council on the Western JRPP.
-

REPORT

(a) Background

At its Ordinary Council meeting of 26 August 2020, Council resolved to appoint Cr George Weston and Cr Tracey Morris as Councillor representatives and Mr Emerson Doig and Mr Greg O'Callaghan as alternate members. Following the December 2021 Local Government elections, new panels members must be appointed for another 3-year term.

Council's Manager of Planning, Building and Health contacted above panel members to gauge their interest in continuing with their membership at the JRPP. All above members indicated that they would like to continue as Council representatives at the Western JRPP.

(b) Discussion

The principal functions of Planning Panels are to determine regionally significant Development Applications (DAs) and undertake rezoning reviews. Additional functions of Planning Panels include:

- preparing planning proposals if they are directed to be a planning proposal authority,
- determining Crown DAs,
- determining modification applications for regionally significant development,
- determining DA reviews,
- determining Site Compatibility Certificates, and
- advising the Minister upon request.

Each Planning Panel consists of five members, with three of the members, including the chair, appointed by the Minister (State members) and two members nominated by the relevant council (council members).

Property developers and real estate agents are not eligible to be members of a Planning Panel.

At least two council members are appointed by each council. At least one council member must have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

All four proposed panel members have undertaken training as JRPP members in the past and can be utilised as expert members.

As conflict of interest may impact on the availability of a panel members e.g., Council own DA, it is recommended to elect alternate members should their services be required. The alternate will act in the place of the member with all the powers of the member.

Planning Panel members are required to complete and sign a declaration of interest form in relation to each matter which is considered by the Planning Panel, either before, or at the commencement of, the Planning Panel meeting. Any verbal declarations are to be recorded in writing.

To avoid any perceptions of bias, and to meet requirements of the Code of Conduct, councillors who have previously deliberated or voted on a matter that is to come before the Planning Panel (such as a submission from the council on a DA for regionally significant development, a related voluntary planning agreement or a planning proposal) must stand aside from their place on the Planning Panel and allow council's nominated alternative member to take their place. Alternatively, the member may choose to not participate in the deliberations or voting on the matter at the council (or council committee) meeting. They should also not remain in the council chamber during the council's deliberations.

(c) Options

1. Preferred option: Endorse Cr Weston and Cr Morris as Councillor representatives and Mr Emerson Doig and Mr Greg O'Callaghan as alternate members.
2. Ask for expressions of interest from other Councillors to replace Cr Weston and/or Cr Morris and for suggestions for community members to replace Mr Doig and Mr O'Callaghan.
3. Council may opt to elect senior staff to represent Council as alternate members if those staff were not involved in the assessment of a development application and/or were not involved in the design and project management of the proposal.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

A sitting fee of \$300 per day applies in cases where an appointed community member represents Leeton Shire Council on the Western JRPP.

(b) Policy

Nil

(c) Legislative/Statutory

The *Environmental Planning and Assessment Act 1979*, as amended, requires development applications identified as being regional developments to be determined by a JRPP. A council must nominate at least two members to represent the council at the JRPP.

(d) Risk

If Council failed to nominate council panel members to the Western JRPP, Council could delay the determination of a Leeton Shire Council development application. Having panel members representing Council at the Western JRPP allows Council to actively participate in planning decisions on developments that have a regional significance.

CONSULTATION

(a) External

Secretariat of the Western Joint Regional Planning Panel
Emerson Doig and Greg O'Callaghan as former panel members

(b) Internal

General Manager
Group Manager Activation
Councillor Morris and Councillor Weston

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Five: A QUALITY BUILT ENVIRONMENT within Council's adopted Delivery Program/Operational Plan – 17 - A community that enjoys attractive towns and parks - 17 d - Deliver development planning services that signal Leeton is 'open for business' - Receive and assess Development and Subdivision Applications.

ATTACHMENTS

There are no attachments for this report.

ITEM 8.17 MINUTES OF THE LIGHT UP LEETON COMMITTEE - 11 NOVEMBER TO 6 DECEMBER 2021

RECORD NUMBER	21/500
RELATED FILE NUMBER	EF21/433/02
AUTHOR/S	Events Officer
APPROVER/S	Manager Visitor Services and Local Activation Group Manager Shire Activation

SUMMARY/PURPOSE

The Light Up Leeton Committee is a Section 355 Committee of Council.

The purpose of this report is to provide Council with the Minutes of the Light Up Leeton Committee meetings held on 11 November, 18 November, 25 November and 6 December 2021 (**Attachments 1-4**).

The minutes of the meetings are prepared by volunteers who sit on the Committee and are presented as supplied to Council.

RECOMMENDATION

THAT Council receives for information the Minutes of the Light Up Leeton Committee meetings held on 11 November, 18 November, 25 November and 6 December 2021.

REPORT

(a) Background

The purpose of the Light Up Leeton Committee is to encourage individuals and businesses to participate in Light Up Leeton events and coordinate and stage a successful event.

The Light Up Leeton Committee holds regular meetings in the months leading up to the event, which is held on an annual basis.

(b) Discussion

The Light Up Leeton Committee met weekly during November to coordinate the event on 5 December 2021. Discussion and action on items have included:

- Light Up Leeton Committee agreed to request the Christmas lights that were removed from Chelmsford Place be stored until a suitable and prominent
-

location is found. The proposal for the tree above the aviary in Mountford Park was declined as a main thoroughfare is preferred for visibility to the wider community. The Committee will investigate other options during 2022.

- Organisation and coordination of stallholders
- Organisation of judges of Lights Display competition
- Organisation and preparation of Mountford Park as the event location, including COVID requirements, decoration and general facilitation.

The meeting minutes are included with this report as **Attachments 1-4**.

(c) Options

Nil – meeting minutes are for information only.

IMPLICATIONS TO BE ADDRESSED

(a) Financial

The Light Up Leeton Committee is a Section 355 Committee. It currently manages its own finances.

Leeton Shire Council provides its contribution to this annual event in the form of \$5,000 cash sponsorship and staff wages towards supporting facilitation of the event.

(b) Policy

Leeton Shire Council Code of Conduct

(c) Legislative/Statutory

Under Section 355 (b) of the *Local Government Act 1993* a Council may exercise its functions by a Committee of Council.

(d) Risk

The legislative non-compliance of a Section 355 Committee could have legal, reputational, political and financial impacts. Note that Council has commenced a review of all Section 355 Committees to check for legislative compliance.

CONSULTATION

(a) External

Committee members

(b) Internal

Events Officer
Manager Visitor Services and Local Activation
Manager WHS, QA and Risk

LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)

Under the Key Priority Area Outcome Six: STRONG LEADERSHIP within Council's adopted Delivery Program/Operational Plan – 19 - A community that speaks up and gets involved - 19 c - Provide a framework for inclusive decision-making - Support and report on Council's Section 355 Committees.

Under the Key Priority Area Outcome Four: A THRIVING ECONOMY AND GOOD JOBS adopted Delivery Program/Operational Plan – 13 - A community that has great attractions and events – 13 a - Encourage a range of exciting and interesting sports, arts and cultural events for the residents and visitors of Leeton Shire.

ATTACHMENTS

- 1 [1](#) Light Up Leeton Meeting Minutes - 11 November 2021
- 2 [2](#) Light Up Leeton Meeting Minutes - 18 November 2021
- 3 [3](#) Light Up Leeton Meeting Minutes - 26 November 2021
- 4 [4](#) Light Up Leeton Meeting Minutes - 6 December 2021 - redacted



Minutes of LUL Meeting 11th November 2021

Present: Gwen, Fran, Peter & Jenny, Carol, Alma & Ray, Julie, Jenny Day

Apologies: Ian

Minutes from Previous Meeting Passed Ray, Seconded Gwen

Ray advised that testing of lights had been done and all but one transformer and one long orange cable had passed the testing. Ray is to purchase another cable and transformer to replace them.

Our missing transformers were located by Justin Davidson at Council.

Justin also made a suggestion that our lights be installed in the large tree in the Bird Aviary at Mountford Park where power is available. Robyn put forward she was against this, saying that the lights wouldn't display well and tree was too large for the lights to be of any significance. It was agreed by all that lights would be better displayed in main thoroughfare and we would deal with the placement next year.

The \$1500 prize money for best lights will be in the form of Gift Cards. The Chamber of Commerce will provide a \$500 gift card for 1st place, a \$250 for 2nd and LUL will donate the \$150 for 3rd place in the best Business Xmas Lights.

Fran has notified Leeton Police and the emergency services of our Christmas Fair.

Fran had a meeting with Dan Cotter of Leeton Rotary who are happy to have ham raffle and will commence selling at 5.30pm. Brian Collins from Leeton Lions OK with Lions Train and Merry-go-round. Temporary fencing to be added past aviary down to Church street.

Rob contacted Rod Heffer from Rotary Central who are happy to help with erecting fences on the day. Paul Smith from VRA OK to do First Aid and help with QR check-in and double vax checks.

Selling of our Christmas Raffle tickets to be set up at both entrances.

Fran has updated Facebook page with LUL banner, so that we can all share.

Fran will also register our QR code and forward plan of park and run sheet of time schedules to all stallholders. It was decided that 4pm for stallholders to set up and for barricades to go up around 2pm by Council.

Ray will take the large LUL banner up to Council for Jarrah Mall.

Robyn and Jenny to get balloons, sticks and lollipops from container and purchase extra lollipops etc as required from Leeton Party and Wholesale.

Irrigator advertising has been organised by Fran, as has mozzie spraying. McMahons have kindly donated bins free of charge. The Leeton Lions will supply their own bollards, etc.

Brett Deaton to be contacted regarding the putting up of lights in Park.

Our meeting next Thursday to commence in Park at 6pm.

Meeting closed at 7.50pm



Minutes of LUL Meeting 18th November 2021

Location: Mountford Park at 6pm

Present: Julie, Ray and Alma, Carol, Fran, Robyn, Ian, Jenny, Leanne Schmidt, Tarnya Schmidt

Apologies: Jenny and Peter Davidson

Minutes from Previous Meeting: Passed Julie, Seconded Ray

Business Arising:

Large LUL Banner yet to be located. Julie texted Carl to see if he shed any light as to where it may be. We will also check wings of stage and the container for it.

It was decided not to purchase another transformer and cable to replace ones not passed until there is a need for them.

General Business:

A warm welcome to our new member, Leanne Schmidt.

Robyn had a call from WIN re: advertising. It was agreed not to have paid advertising and just go ahead with Community Notice Board.

Fran has been in contact with John from the Irrigator and we will go ahead with \$200 worth of advertising in online paper.

Harvey Hester, along with Paul Maytom and Leanne to judge best lights competition if willing. When people register their lights, they need to give name and address.

Fran has done signage for our QR codes, social distancing and proof of double vax.

VRA will man our three entrances - at Wade Ave, Jarrah Street and Church Street.

Fran will confer with Josh Clyne regarding pickets along agapanthas garden bed and a smaller fence along grassed area.

Fran will do a site map up of park and where each stall to be located and forward to them.

Brett Deaton to be asked if he can put lights up at 9am on the Sunday.

After some yummy pizza in the park - Meeting closed at 7.20pm.



Minutes of LUL Meeting 25th November 2021

Location: Robyn Retallick's home at 6pm

Present: Robyn, Alma & Ray, Julie, Fran, Carol, Jenny & Peter, Gwen, Ian, Jenny

Apologies:

Minutes from Previous Meeting: Passed Ian, Seconded Alma (with correction)

Business Arising:

In previous minutes it was stated that entrances were to be manned by VRA, however Fran said it should be noted that they will also be manned by members from LUL.

Banner still not found - may be in wings of stage at Mountford Park?

Robyn contacted Brett Deaton from Prolop regarding the putting up lights on top of stage - hopefully will be able to do them from 12 to 1pm and will be in touch with Ian who will pick up frames of lights.

General Business:

Stallholders to set up from 3.30pm to 4.30pm and will be asked to have vehicles out of Park by 4.30pm.

Robyn, Jenny Day, John and Josh to pick everything we need for the day from container at 10.30am and deliver to park at 2.30pm.

Alma to pick up key for stage wings from Council on Friday at 1pm and a few members to check out the concertina back drop and see if suitable to use. If not, we will need to use our usual Christmas backdrop and ask Kevin Lehman if he could help erect it.

Up to date, 15 have registered their lights on LUL Website.

Fran has printed map of Park and sent to all stallholders, also advising them of all Covid requirements they need to follow.

Bins from McMahons have been organised.

LUL will be selling raffle tickets at entries on Jarrah Street and Wade/Jarrah Streets.

Everyone entering the area will get a coloured sticker so if re-entering after going to toilet, etc will not have to go through Covid procedures again.

Voucher from Golden Apple for Raffle to be picked up.

Fran will do a run sheet for the night and hopefully one of our singers will be ok to give a few spiels throughout the evening encouraging people to purchase foods from the various stalls and also to buy raffle tickets.

Check out if any tables and chairs in stage wings - if not, then Council can provide 4 tables and chairs in necessary.

Judging of the lights to happen on Dec 14. Winners to be announced on Dec 15 and appear in the Irrigator on Dec 17.



Minutes of LUL Meeting 25th November 2021

Time-table for the day:

10.30am	Go to container and pick up everything we need
12 - 1pm	Brett Deaton to install lights on stage
1pm	Council to put up fencing with the help from Rotary Central
2pm	Set up stage
3.30 - 4.30pm	Stall holders to set up
5.30pm	Rotary Ham Raffle to start
6pm	Entertainment to commence
7pm	Santa and Mrs Clause to arrive
8pm	Turn on lights
8.30	Clean up

Meeting closed at 7.55pm.



Minutes of LUL Meeting 2nd December 2021

Location: Robyn Retallick's home at 6pm

Present: Robyn, Fran, Gwen, Alma & Ray, Jenny & Peter, Leanne, Tarnya, Carol, Ian, Rob and Jenny

Apologies: Julie

Minutes from Previous Meeting: Passed Fran, Seconded Alma

Business Arising:

Upon checking the concertina backdrop at stage and deciding it was too dirty and in poor condition to use, we are going to put up our usual Christmas backdrop. It will be picked up from container at 10.30am and set up with the help of John Retallick, Dion and Josh Davis, Ian, Ray and Jason Schmidt.

There are enough tables and chairs in wings to us in the night, so no need to get same from Council.

General Business:

Lions' Merry-go-Round is out of action so won't be there on the night.

Fran has checked toilets – they are stocked ready.

LUL Raffle to be drawn at 8pm.

Little white picket fence to be set up in front of stage, mindful of any underground irrigation pipes.

Alma and Georgina along with Peter and Jenny to do first shift of selling Raffle Tickets.

Checking in: Fran and Brent Lawrence, Carol and Gwen, Julie and Leanne + VRA members.

We are to keep a check on and empty bins throughout the evening.

Judging of lights to be carried out by [REDACTED]

Fran will have tape and bits and pieces for any safety issues.

Robyn to arrange esky with bottles of water for members throughout the afternoon and evening.

Fran presented copy of ad for Friday's Irrigator. Great job Fran 👍

A few committee members to meet at back of stage as Santa and Mrs Clause arrive at 7pm to hand out lollipops while they are in stage.

Peter suggested we write a letter to Council advising them of the condition of concertina backdrop and ask if something can be organised to get new ones. It was decided to write letter in the New Year.

Our next meeting/social evening to be held at L&D Bowling Club on Sat 8 Jan at 6pm for 6.30pm start.

Meeting closed at 7.30pm.

COUNCILLOR ACTIVITY REPORTS ITEM 1

COUNCILLOR ACTIVITY REPORT

RECORD NUMBER	22/32
RELATED FILE NUMBER	EF21/508
AUTHOR	Executive Assistant to the General Manager and Mayor

RECOMMENDATION

THAT Council notes the Councillor Activity Reports for the period 13 January 2022 to 23 February 2022.

Cr Tony Reneker

14 January 2022	Sporting Walk of Fame Meeting and Australia Day Committee Judging
23 January 2022	Meeting with the Hon Sussan Ley MP
25 January 2022	Dinner with Australia Day Ambassador and Leeton Soccer Club
26 January 2022	Australia Day and Citizenship Ceremony Celebrations – Murrami and Leeton
27 January 2022	Sporting Walk of Fame Meeting
3 February 2022	Leeton Health Services Crisis Committee and Leeton Shire Council Inaugural Meeting
4 February 2022	Meeting with Murrumbidgee Irrigation Chairman and Chief Executive Officer
5 February 2022	Opened Leeton Museum and Art Gallery 'Yanco Moments in Time' Exhibition
8 February 2022	LGNSW Mayoral Training and Meeting with Men's Shed Representatives
9 February 2022	LGNSW Mayoral Training
10 February 2022	Sporting Walk of Fame Meeting
15 February 2022	Wumbugal Site Visit with Ken Gillespie and Don Murray
16 February 2022	Formal Councillor Induction Training
19 February 2022	Cars for Kids Show and Shine Opening
22 February 2022	Meeting with Cummins Group

Cr Michael Kidd

12 February 2022	Opened Leeton Museum and Art Gallery 'Past Moments Glories' Exhibition
16 February 2022	Formal Councillor Induction Training

Cr Tracey Morris

26 January 2022	Australia Day Celebrations
16 February 2022	Formal Councillor Induction Training

Cr George Weston

13 January 2022	SunRice Festival Meeting
19 January 2022	Australia Day Meeting
20 January 2022	SunRice Festival Meeting
26 January 2022	Australia Day Celebrations
8 February 2022	Meeting with Men's Shed Representatives
10 February 2022	Leeton Chamber of Commerce AGM
16 February 2022	Formal Councillor Induction Training
21 February 2022	Gogeldrie Riverside Park Committee Meeting

Cr Tony Ciccia

8 February 2022	Meeting with Men's Shed Representatives
16 February 2022	Formal Councillor Induction Training