

Local Government (General) Regulation 2005

Current version for 1 July 2019 to date (accessed 13 September 2019 at 12:05)

Schedule 7

Schedule 7 Election of mayor by councillors

(Clause 394)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:
ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (6) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter’s preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.

- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General

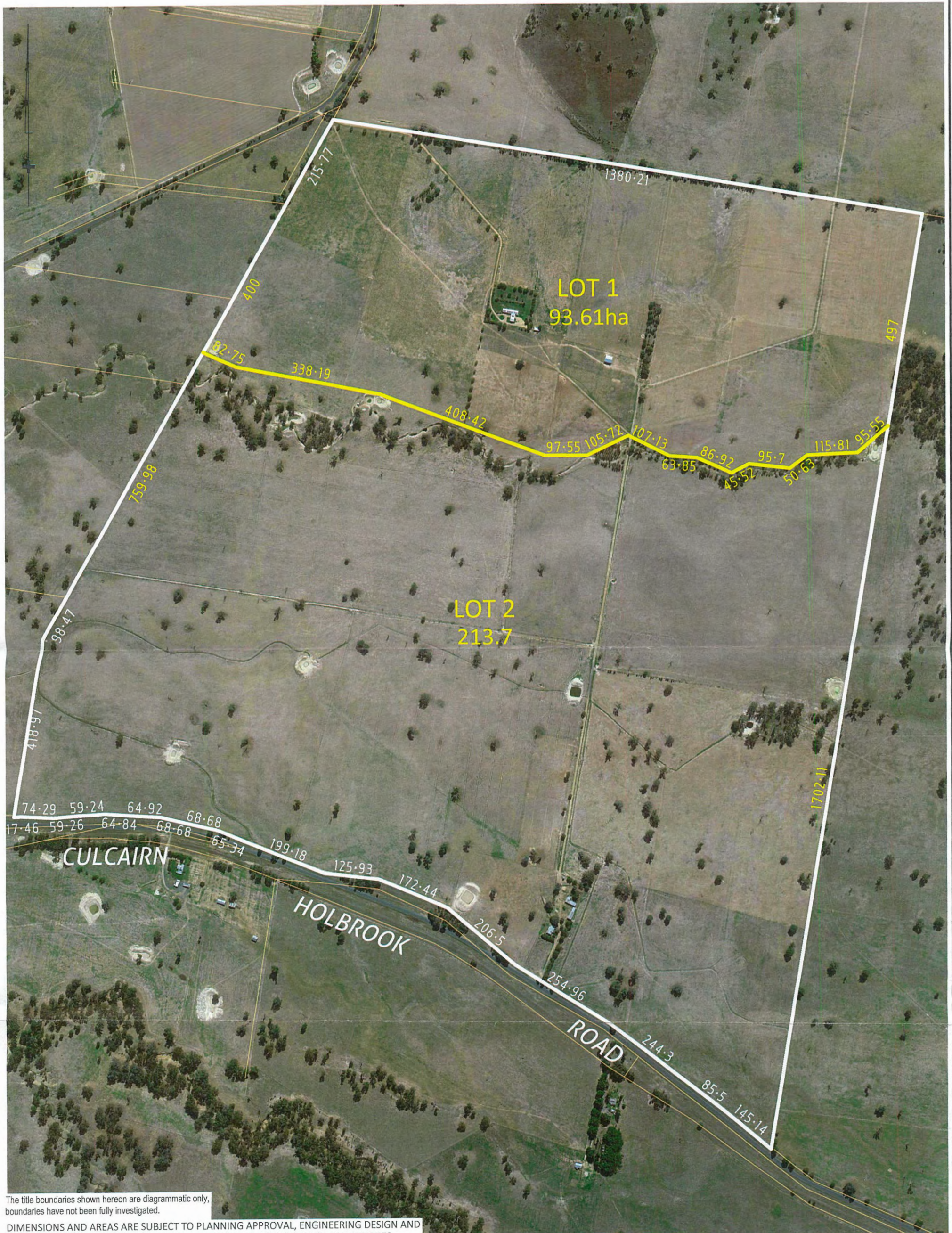
12 Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of New South Wales.



The title boundaries shown hereon are diagrammatic only, boundaries have not been fully investigated.

DIMENSIONS AND AREAS ARE SUBJECT TO PLANNING APPROVAL, ENGINEERING DESIGN AND FINAL SURVEY. PROPOSED LOTS MAY BE AFFECTED BY NEW EASEMENTS FOR SERVICES.

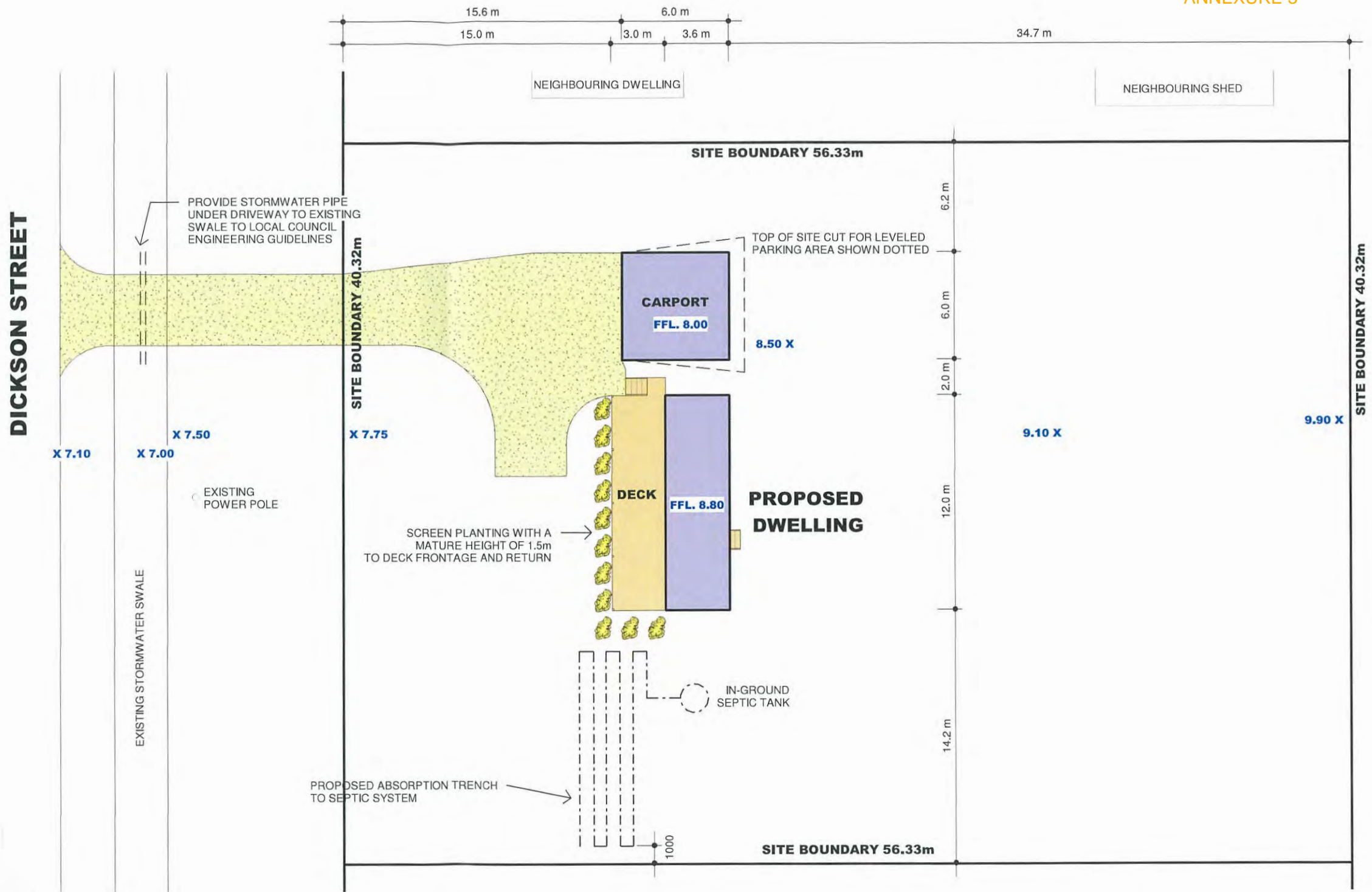


Licensed NSW & Victorian Cadastral and Engineering Surveyors
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 info@walpolesurveying.com.au

SURVEYORS REF:
 19079
 VERSION 3
 13/08/2019

ORIGINAL SCALE SHEET SIZE
 1:8000 A3

PLAN OF PROPOSED SUBDIVISION
 LOT 258 IN DP753330
 700 Culcairn Holbrook Road, Holbrook
 For Tom Bull



DRAWING REGISTER	
SHEET No	SHEET NAME
A01	SITE PLAN
A02	FLOOR PLAN
A03	ELEVATIONS

SITE DATA:-

ADDRESS: ...9 DICKSON STREET,
WEST WOOMARGAMA NSW
LOT NUMBER: ...12
DP NUMBER: ...264295
SITE AREA: ...1135m²

AREA TABULATION. APPROX AREAS. BUILDER TO CONFIRM		
NAME	AREA	SQUARES
1 - DWELLING	43.2 m ²	4.65
2 - DECK	36.0 m ²	3.88
3 - CARPORT	36.0 m ²	3.88
	115.2 m ²	12.40



SHEET SIZE "A3"

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PROPOSED DWELLING

For: KAREN PORTWIN

At: 9 DICKSON STREET, WEST WOOMARGAMA NSW

COLOUR USED FOR PRESENTATION ONLY



ROB PICKETT DESIGN

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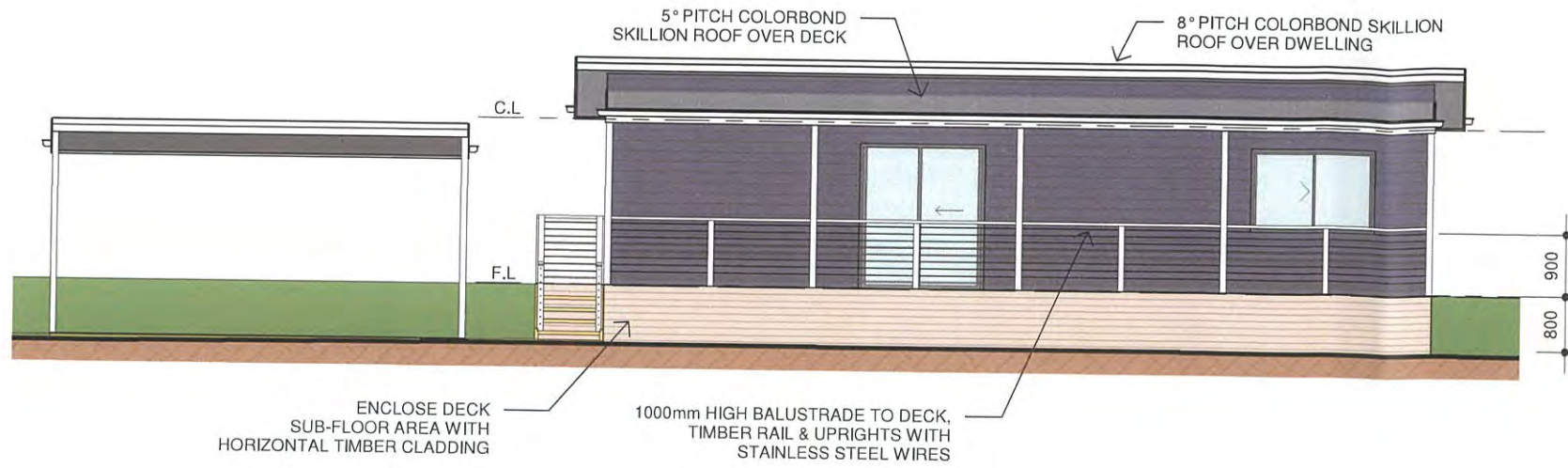


Sketch: SIX

Sheet: A01

Date: 27-8-2019

Job No: 6886



NORTH ELEVATION - DICKSON STREET

1 : 100



SOUTH ELEVATION

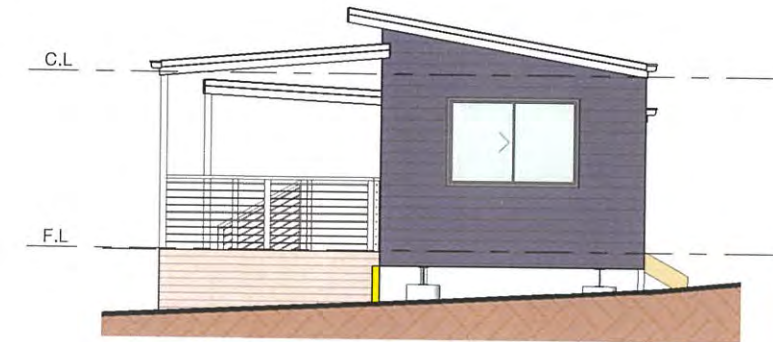
1 : 100



EAST ELEVATION

1 : 100

GUTTER - SURFMIST
 FASICA - SURFMIST
 POSTS - SURFMIST
 WEATHERBOARDS - WOODLAND GREY
 ROOFING - GALVANISED CORRUGATED

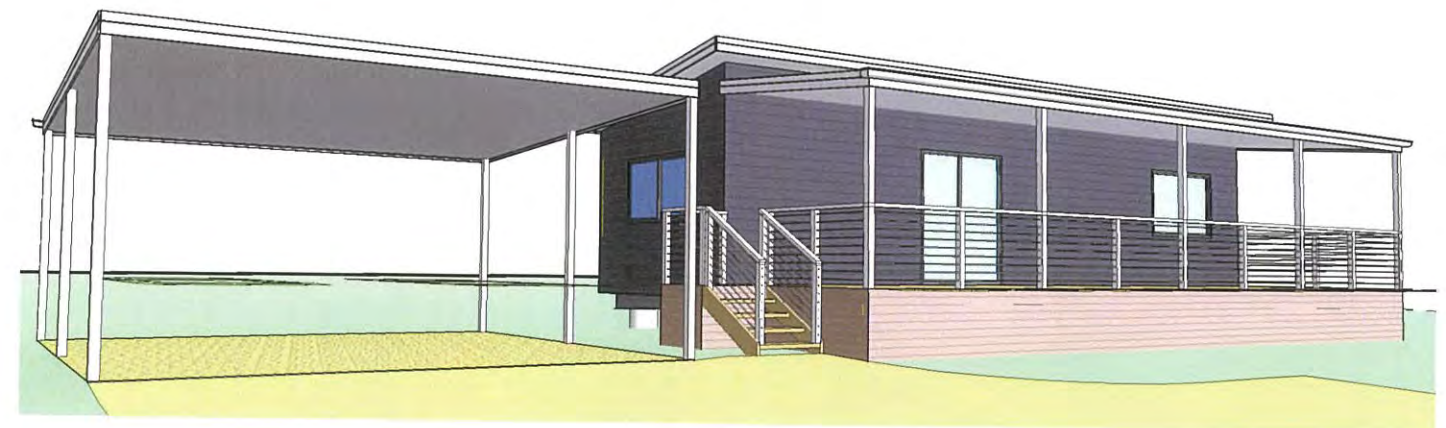


WEST ELEVATION

1 : 100



3D View 1



3D View 2

SHEET SIZE "A3"

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PROPOSED DWELLING

For: KAREN PORTWIN

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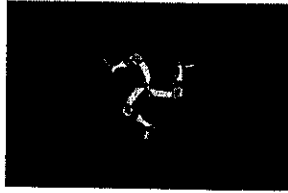
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Sheet: A03

Date: 27-8-2019

Job No: 6886

#345597



5623/2019

5624/2019

5/5/2019

Cloete Van Wyk

Building Surveyor

Greater Hume Shire Council

P.O Box 99. Holbrook 2644

Re: Development application # 10.2019.51.1 9 Dickson St Woomargama

Dear Sir,

We are the adjoining landholders of the proposed development application (DA) # 10.2019.51.

We hereby wish to object to this application based on a number of points.

1. That the building was put there illegally some time ago and that Council has taken an unreasonable amount of time to act, despite being notified.
2. The building on the block is not as described in the DA. The building has best, the appearance of a "Donga" or Miners accommodation.
3. The building does not in any way have anything in common with other homes in Dickson street.
4. Recently, Council disallowed a transportable 2 bedroom cottage, proposed to be located on small acreage off Halford drive in Holbrook. How then, can an unattractive, transportable miners cottage such as in this application, be even considered in a village?
5. If the Council does allow this form of dwelling, it would more than likely devalue our property next door in Dickson Street..

Alternately, we can request independent Valuation of our property, and make a comparison both with and without the said dwelling. The land can then be put to Public auction. In the event that our reserve, not being met, GHSC would be obliged to pay the difference in value. This apparently is the accepted process when Government departments make decisions which do financially affect landholders.

Please consider the above points. We are able to elaborate further on request, in person.

We will be attending the Council meeting scheduled to deal with this matter. Please notify us of the date on which it will be dealt.

Yours Sincerely

[Redacted Signature]

#5025/2019

#5126/2019

[REDACTED]
[REDACTED]

Greater Hume Shire Council

Holbrook NSW 2644

25-07-2019

ATTN Colin Kane

To Whom It may concern,

As my conversation with Colin on 24th July, the proposed dwelling has not been passed and a meeting to take place regarding this property I would be very grateful if you could please raise our concerns.

I am writing my concerns about the neighboring property (9 Dickson Street West, Woomargama) beside our home [REDACTED].

The Placement of the building is at the rear of the block built up as high as our fence level overlooking our backyard, with plans of building a decking, again this will be at height with our fence or near there.

Their proposal for trees or screen to line the fence edge for privacy will enclose our yard and obstruct our views.

It does not keep within streetscape as all other houses in Dickson street west are positioned on front half of their block.

We propose the building is moved forward, in line with our house to prevent our privacy being invaded.

Looking forward to hearing from you,

Yours sincerely,

[REDACTED]
[REDACTED]

Sharyn Coulston

From: Adrian Dunn <Adrian.Dunn@westrac.com.au>
Sent: Wednesday, 11 September 2019 7:27 AM
To: MailMailbox; Sharyn Coulston
Subject: 10.2019.75.1 - New Shed - 128 Huon Street Gerogery West

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sharyn,

10.2019.75.1 - New Shed - 128 Huon Street Gerogery West

I am replying to supply council with more information on the specific use of the proposed shed.

The proposed shed will be used to store vintage trucks and cars. The raised gutter height of the shed is to allow for the access of vintage trucks in my collection. The proposed shed has a door height of 4.7 meters leaving 500mm clearance for the trucks access. I wish to have the trucks fully housed and sheltered from the elements of the weather as body and paintwork on these vehicles can cost up to and beyond \$20,000. These vehicles are purely a hobby of mine. I thoroughly enjoy showing these vehicles off at local car and truck shows. I stress these are not commercial trucks and will be registered under club permits.

Being under club permit the amount of vehicle usage is limited to a total of 30 days per year, and forbids the towing of commercial goods. I also add that the kerb weight of the truck is 7t, well below the 15t local road GVM limit.

Occasionally I will need to service the vehicles which will require the use of portable hoists. The height of the shed is crucial to allow me to be able to manoeuvre the trucks off the ground. All services to these vehicles will occur during practical hours of the weekend as I have a full-time job during the week.

I have also been working on a smaller ute project out of my existing shed without any noise complaints for the last 2 years.

Regards
Adrian Dunn

Adrian Dunn | WesTrac Pty Ltd | NSW Albury

Tel: (02) 60495300 | **Fax:** (02) 60252897 | **Mob:** 0428255858 | **web:** www.westrac.com.au



ACN 009 342 572



9 August 2019

By email: ckane@greaterhume.nsw.gov.au

Our Reference
191712

Colin Kane
Director Environment & Planning
Greater Hume Shire Council
PO BOX 99
HOLBROOK NSW 2644

Dear Colin

Advice on withholding owners consent

I refer to your telephone conversation with Alice Menyhart of 29 July 2019.

1. Instructions

- 1.1 We are instructed to provide advice regarding the ability of the Land and Environment Court to give consent, on behalf of the Council as landowner, to the making of a development application for the purpose of a solar farm partly on a public road that is owned by the Council.

2. Summary of Advice

- 2.1 The Council is able to withhold its consent as an owner to the making of a development application on land owned by the Council. However, there is case law which suggests that to do so arbitrarily may be considered by the Court to have been for an improper purpose.

- 2.2 In any appeal of a development application for State significant development, the Land and Environment Court (**the Court**) has the functions of the consent authority. For State significant development, the consent authority will be the Independent Planning Commission (**the Commission**) or the Minister and not the Council. However, in our view, it is arguable that, in the relevant statutory context, the Court may still be able to grant owner's consent on behalf of the Council.

- 2.3 The developer could apply for an easement over the Council's road:

- (a) to the Supreme Court under s.88K of the *Conveyancing Act 1919*; or
- (b) to the Court in any appeal of a refusal to grant development consent.

If an easement is granted there is an implied (and can be express) obligation that the Council will give its consent to the making of a development application consistent with the purpose for which the easement was granted.

- 2.4 If development consent is granted for the development by the Court, the Commission or the Minister, the Council cannot withhold its consent to the road works under s.138 of the *Roads Act 1993* if they are substantially consistent with the consent granted.

3. Background

- 3.1 There are a number of solar farm developments taking place in the Council's Local Government Area.
- 3.2 We are instructed that these solar farm developments are State significant development. We have assumed for the purpose of this advice, however, that the development is not State significant infrastructure.
- 3.3 A development application for a solar project has recently been made and is seeking to connect to an existing substation by constructing cables under a Council road. We have assumed for the purpose of this advice that the Council is the appropriate roads authority for this road and that the fee simple in the road is vested in the Council under s.145 of the *Roads Act 1993*.
- 3.4 We are instructed that, if the Council refuses to give its consent, then the developer will probably seek to have the Council's decision reviewed by the Court.
- 3.5 Please let us know if any of the above information is incorrect, as this may affect our advice.

4. Advice

Power to withhold owner's consent

- 4.1 As Council is aware, a land owner's consent to the making of a DA is an essential requirement for the making of a valid development application, without which any resulting development consent will be invalid. The requirement operates to give the owner of land effectively a right of veto over the approval of the development: *Mulyan Pty Ltd v Cowra Shire Council* [1999] NSWLEC 212. However, the right of the Council as the owner of a public road to withhold consent is not as broad as that of a private person. In *Sydney City Council v Claude Neon Ltd* (1989) 67 LGRA 181 at [729] the Court held that:

'the council does not have a right arbitrarily to withhold its consent as the ordinary owner of private land might do. If the proposed development is one which ought to be approved, then the council ought to give its consent. Its failure to do so simply because it wished to frustrate the right of the adjoining owner to obtain approval...would be a use of its power for an improper purpose'.

- 4.2 The Court's decision in *Clause Neon* was made in the course of considering whether the granting of development consent by the Council for development to be carried out on Council-owned land impliedly incorporated the Council's consent as landowner to the making of the development application. The Court held that it did and that the Council's granting of development consent 'necessarily and implicitly imports consent to the making of the application'. However, the Court's conclusion that the withholding of consent arbitrarily would be a use of its power for an improper purpose means, in our view, that there would be a significant risk that any such decision might be successfully challenged in Class 4 judicial review proceedings. The Council's inability to refuse approval to the works under s.138 of the *Roads Act 1993* (discussed below at [4.16]), lends further support to this conclusion.

Ability of the Court to grant owner's consent

- 4.3 Ordinarily, if a council is the consent authority for a DA to which it has not given its consent as owner of the land and that application is either expressly refused or deemed to be refused then, in any appeal, the Court will be able to give consent to the making of the application 'on behalf of the Council'. It is well established that the Court has this power pursuant to section 39 of the *Land and Environment Court Act 1979 (the LEC Act)*: *Sydney City Council v Ipoh Pty Ltd* [2006] NSWCA 3000. That provision is now contained in s.8.14 of *Environmental Planning and Assessment Act 1979 (the EPA Act)* and is as follows:

'In addition to any other functions and discretions that the Court has apart from this subsection, the Court has, for the purposes of hearing and disposing of an appeal under

this Division, all the functions and discretions which the consent authority whose decision is the subject of the appeal had in respect of the matter the subject of the appeal.'

4.4 We are instructed that the solar development currently being proposed is State significant development. Under s.4.5 of the EPA Act, the consent authority for State significant development is the Commission (if the development is of a kind for which the Commission is declared to be the consent authority by an environmental planning instrument) or the Minister (if the development is not of that kind). Therefore, in this case the consent authority will not be the Council and, in any appeal the *'person or body whose decision is the subject of the appeal'* will be the Minister or the Commission.

4.5 We are only aware of one case in which a similar issue has arisen. In *CEAL Limited v Minister for Planning and Ors* (2007) 159 LGERA 232, road upgrades were required to a Council road but consent had not been provided by the Council. In that case it was submitted by the applicant (at 241) that:

Although the amended development application had sought development consent for the road upgrading, it had not been accompanied by the consent in writing of the owner of the road, the Council. Section 39(2) of the Land and Environment Court Act 1979 (the LEC Act) did not apply as the "person or body whose decision" was subject to the appeal within the meaning of that provision was the Minister not the Council. Accordingly, the court could not exercise the Council's functions as the owner of the road to give owner's consent to the development application (a function which, I note, the court could have exercised if the Council were the consent authority whose decision was subject to the appeal — see, for example, Sydney City Council v Ipoh Pty Ltd (2006) 149 LGERA 329).

4.6 This was not a central issue in the appeal and the Court was not required to decide whether it was correct. However, the Court did appear to accept the submission, going on to find a different function of the Council, namely giving of consent under s.138 of the *Roads Act 1993*, was not exercisable by the Court because this was a function of the Council (as the relevant roads authority) and not the Minister as the consent authority: at [28].

4.7 As the issue has not been squarely decided by the Court there is some uncertainty about whether the Court will take the same approach discussed, but not finally decided, in the CEAL case. It seems to us that it would also be open to the Court to decide that, having regard to the Council's inability to withhold approval under s.138 of the *Roads Act 1993* for works necessary to implement a development consent for State significant development, the Court should be able to exercise the function of the Council to provide the owner's consent to the making of the application. This would also be consistent with the views expressed in the *Clause Neon* case (discussed above) that refusal to provide owner's consent simply to frustrate the determination of an otherwise meritorious application may be susceptible to legal challenge for having been done for an improper purpose.

Creation of an Easement

4.8 The developer may obtain a right to compel the Council to grant owner's consent if it can obtain an easement over the Council's land for the purpose of the development.

4.9 An easement is exercised over land for the benefit of other land. For the creation of an easement, the servient tenement (in this case, the Council's land) must 'accommodate' the dominant tenement (the developer's land). The separate lots will often, but need not, be contiguous (i.e. sharing a common border). We understand that the lots in the application the subject of your request for advice are, or are almost, contiguous and, in our view, in these circumstances an easement for the proposed cables would 'accommodate' the developer's land.

4.10 Under s.88K of the *Conveyancing Act 1919*, the Supreme Court may make an order imposing an easement over land if the easement is reasonably necessary for the effective use or development of other land that will have the benefit of the easement. The same power is given to the Court under s.40 of the LEC Act where it:

- (a) has determined to grant or modify a development consent pursuant to proceedings on an appeal under EPA Act, or
- (b) proceedings on an appeal under the EPA Act with respect to the granting or modification of a development consent are pending before the Court.
- 4.11 The relevant questions on an application under s.88K of the *Conveyancing Act 1919* or s.40 of the LEC Act were summarised by the Court in *Khattar v Wiese* [2005] NSWSC 1014 at [2][±] as:
- (a) Is the proposed easement reasonably necessary for the effective use or development of the applicant's land that will have the benefit of the easement (s 88K(1))?
- (b) Will the use of the applicant's land having the benefit of the easement not be inconsistent with the public interest (s 88K(2)(a))?
- (c) Can the owner of the land to be burdened by the easement, and each other person having an estate or interest in that land, be adequately compensated for any loss or other disadvantage that will arise from imposition of the easement (s 88K(2)(b))?
- (d) Have all reasonable attempts been made by the applicant to obtain the easement or an easement having the same effect, but have been unsuccessful (s 88K(c))?
- (e) If yes to each of the foregoing questions, should the court exercise its discretion to impose an easement (s 88K(1))?
- (f) Unless there are special circumstances of the case, what compensation is appropriate to be ordered (s 88K(4))?
- (g) Is there any reason why the costs of the proceedings should not be paid by the applicant (s 88K(5))?
- 4.12 We do not have sufficient information about the project or the background to the matter to advise on the likelihood that a court would grant the easement under the above considerations. The making of an order to create an easement over the road in question is, however, clearly a possibility.
- Effect of an easement on owner's consent*
- 4.13 Granting an easement and obtaining owner's consent are two different issues. However, if an easement is granted there is an implied obligation imposed on the owner of the servient tenement (the land burdened by the easement) to give its consent to the making of an application for consent to undertake works within the easement, being works for the purpose for which the easement was granted. This obligation may be made an express term of the easement: *Rainbowforce Pty Limited v Skyton Holdings Pty Limited and Ors* [2010] NSWLEC 2 at [196]; *117 York St. Pty Ltd v Proprietors of Strata Plan No 16123* (1998) 43 NSWLR 504 at [522] but will be implied if not express.
- 4.14 Therefore, if the developer obtained an easement for the purpose of the laying of the cables, with the consent of the Council or by an application to a court, the Council could not withhold its consent to a development application for the solar project which required use of those cables.
- Consent under s.138 of the Roads Act 1993**
- 4.15 As the Council is aware, under s.138 of the *Roads Act 1993* a person must not carry out a work in, on or over a public road, or dig up or disturb the surface of a public road without the consent

[±] Applied by Preston CJ in *Rainbowforce Pty Limited v Skyton Holdings Pty Limited and Ors* [2010] NSWLEC 2.
191712_006.docx

of the appropriate roads authority. The development will therefore need s.138 consent from the Council in addition to owner's consent.

- 4.16 An application can be made for consent by any person under s.139 of the *Roads Act 1993*. Ordinarily, an application for development consent can be integrated development under s.4.46 of the EPA Act and also seek approval under s.138; however, State significant development cannot be integrated development and, as such, a s.139 application must be made separately to an application for development consent.
- 4.17 Ordinarily, the Council could refuse to grant s.138 approval and the applicant would have no right of review or appeal. However, s. 4.42 of the EPA Act provides that a consent under s.138 of the *Roads Act 1993* is an authorisation of a kind which cannot be refused if;
- (a) it is necessary for carrying out State significant development that is authorised by a development consent; and
 - (b) is to be substantially consistent with the consent.
- 4.18 As such, if the Minister or Commission, or the Court on appeal, grants development consent for the proposed solar project and the application for works on the Council road is consistent with that consent, then the Council will not be able to withhold approval to carry out those works under s.138 of the *Roads Act 1993*.

Please let me know if you wish to discuss this advice.

Yours sincerely

BRADLEY ALLEN LOVE



Alan Bradbury
Legal Director

Direct Line: 02 6274 0940
Email: alan.bradbury@ballawyers.com.au

Private Swimming Pool Inspection Policy

Document Name	Document Version Number	Review Date
Private Swimming Pool Inspection Policy	1.0.1	August 2024
Date Adopted	Minute Number	Status
25 September 2019	Insert Minute Number Here	Amended policy

Purpose

Scope

- To outline Council's Private Swimming Pool Barrier Inspection Policy which is a statutory requirement imposed upon Council under Section 22B of the Swimming Pool Act 1992.
- To describe what enforcement measures Council will take on detection of non-compliance with swimming pool fencing requirements.

Definitions

Policy Content

On 29 October 2012 the Swimming Pool Amendment Act 2012 introduces a number of changes to the Swimming Pool Act 1992 and there were corresponding changes made to the Swimming Pool Regulation 2008.

This policy has been prepared in response to the inclusion in the Swimming Pool Act 1992 of Section 22B which is outlined below:

22B Mandatory pool inspection program by local authority

1. A local authority must, within 6 months after the commencement of this section, develop and adopt a program for the inspection of swimming pools in its area to ensure compliance with the requirements of this Part.
2. Within 12 months after the commencement of this section, the program must make provision for the inspection, at least once every 3 years, of any swimming pool situated on premises on which there is tourist and visitor accommodation or more than 2 dwellings.
3. The program is not to require the inspection of a swimming pool in respect of which there is a valid certificate of compliance or a relevant occupation certificate.
4. A local authority must inspect swimming pools in its area in accordance with its program.
5. The regulations may make provision for or with respect to the development and adoption of programs for the inspection of swimming pools including:
 - a) the form and content of programs, and
 - b) the manner in which the public is to be consulted during the development of any such program, and
 - c) the carrying out of inspections under the program.
6. In this section:

dwelling has the same meaning as in the Standard Instrument.

Inspection Program

Mandatory Swimming Pool Barrier Inspection Programme

1. Commencing on 30 September 2019 Council undertake Swimming Pool Barrier Compliance inspections on all tourist and visitor accommodation as well as premises with more than 2 dwellings. All of these facilities will be inspected at least once in every 3 years.
2. Commencing on 30 September 2019 Council undertake Swimming Pool Barrier Compliance inspections where pool owners require a Swimming Pool Barrier Compliance Certificate before the sale or lease of their property. Also inspections of swimming pool barriers will be undertaken on request of a property owner.

Private Swimming Pool Inspection Policy

Annual Auditing Inspection Programme

1. Commencing on 30 September 2019 Council will undertake to inspect for compliance 10 swimming pools barriers in either urban or rural locations in each calendar year. All follow up inspections will be undertaken promptly thereafter.

Inspection Costs

1. For performing either the mandatory or annual auditing inspection program Council will charge the following inspection fees:
 - a) in the case of a first inspection of the swimming pool \$150, or
 - b) in the case of a second inspection of the swimming pool \$100.

Certificates of Compliance

Council will issue a swimming pool barrier certificate of compliance which is valid for a period of three years if it has inspected the swimming pool and it is satisfied that the following requirements have been met:

1. the swimming pool is registered under Part 3A, and
2. the swimming pool complies with Part 2 of the Swimming Pool Act 1992.

Enforcement Procedure

Where Council has undertaken an inspection of a swimming pool and detected non-compliance with the swimming pool barrier the Council will undertake generally the following enforcement procedures:

- First issue a 14 day outstanding works letter to the owners of the land.
- Following this a reinspection occurs and if compliance is not achieved the owner is then served with notices to ensure that they comply with the applicable swimming pool legislation.
- Potential fines and or court action can also occur.

Links to Policy

Links to Procedure

Links to Forms

References

Responsibility

Director Environment and Planning

Document Author

Colin Kane

Relevant Legislation

Swimming Pool Act 1992

Swimming Pool Regulation 2008

Associated Records

Nil, at date adopted.

Document Control

Document Name	Document Version Number	Review Date
Delegation of Authority Mayor		September 19
Date Adopted	Minute Number	Summary of Changes
26 September 2018	5081	Readopted – No Alterations

In order to provide for the expedient exercise and performance of its powers and duties and the efficient management of its business and responsibilities, Greater Hume Shire Council, as provided under Section 377 of the Local Government Act, 1993, hereby delegates to the person holding the position of Mayor COUNCILLOR HEATHER WILTON and to the Deputy Mayor when acting in place of the Mayor, the following functions, duties and authorities as specified in Schedule 1 subject to the limitations specified in Schedule 2. This delegation shall commence on 26 September 2018 and remain in force until specifically altered or revoked in writing.

Schedule 1

1. To give effect to the provisions of the Local Government Act, 1993 and any other Act conferring powers or duties upon the Mayor and to any resolution of direction given to the Mayor by the Council.
2. To obtain legal advice from council's solicitor and/or the legal advisor of the NSW Shires Association.
3. To represent the council, in conjunction with the general manager, in deputations to government, inquiries, appropriate forums and at meetings of organisations which council has resolved to be a member of and for which an alternative delegate has not been specifically appointed.
4. To make media statements and issue media releases in respect of council decisions and relevant issues.
5. To carry out the general supervision, control and direction of the General Manager.
6. Appointment of an Acting General Manager for a period of up to 10 working days following a recommendation from the General Manager. Where possible an information report be submitted to Council on such appointments prior to the appointments taking effect.
7. To determine applications by the general manager for various classes of leave.
8. To determine, in conjunction with the general manager, requests from community groups for minor subsidies of up to \$300 and requests for *in-kind* assistance to an estimated value of \$300.
9. To authorise appropriate presentations to be made to visiting dignitaries and to residents in recognition of achievements and milestones.

10. To exercise the powers of expulsion from meetings of council pursuant to section 10(2)(b) of the Local Government Act for persons guilty of acts of disorder as prescribed in the Local Government (Meetings) Regulation 1999.
11. In conjunction with the General Manager, to engage consultants to undertake projects, on behalf of Council, in those circumstances where the Council does not have the capacity or expertise to undertake the project. However, other than in an emergency the engagement of a consultant must be in accordance with a decision of the Council, or a general budgetary provision. If there is no budget provision, the consultancy is not to exceed \$10,000.
12. To authorise any works deemed urgent within the sums provided in the Council's budget at a cost not exceeding \$20,000 in any particular situation.
13. To perform citizenship ceremonies and present Certificates of Australian Citizenship as provided by the relevant Act.
14. Approve attendance by Elected Members and Senior Staff at conferences and seminars, etc. within NSW and the ACT to a maximum of three days and within budget provisions.

Schedule 2

Limitations

1. The following functions of Council are specifically excluded in accordance with Section 377 (1) of the Local Government Act, 1993.
 - The appointment of a general manager.
 - The making of a rate.
 - A determination under section 549 as to the levying of a rate.
 - The making of a charge.
 - The fixing of a fee.
 - The borrowing of money.
 - The voting of money for expenditure on its works, services or operations.
 - 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).
 - The acceptance of tenders which are required under this Act to be invited by the council.
 - The adoption of a management plan under section 406.
 - The adoption of a financial statement included in an annual financial report.
 - A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6.
 - The fixing of an amount or rate for the carrying out by the council of work on private land.
 - 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.
 - 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 92 A of the Environmental Planning and Assessment Act 1979.
 - The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194.

- A decision under section 356 to contribute money or otherwise grant financial assistance to persons.
- The making of an application, or the giving of a notice, to the Governor or Minister.
- This power of delegation.
- Any function under this or any other Act that is expressly required to be exercised by resolution of the council.

End of delegation.

Adopted 17 August 2005
Minute No. 344
Reviewed 26 September 2007
Minute No. 1170
Reviewed 24 September 2008
Minute No. 1622
Reviewed 16 September 2009
Minute No. 2016
Readopted 15 September 2010
Minute No. 2438
Readopted 14 September 2011
Minute No. 2832
Readopted 19 September 2012
Minute No. 3199
Readopted 11 September 2013
Minute No. 3546
Readopted 17 September 2014
Minute No. 3880
Readopted 16 September 2015
Minute No. 4175
Readopted 21 September 2016
Minute No. 4483
Revised 20 September 2017
Minute No. 4807
Readopted 26 September 2018
Minute No. 5081

Document Control

Document Name	Document Version Number	Review Date
Delegation of Authority - General Manager		September 19
Date Adopted	Minute Number	Summary of Changes
26 September	5081	Revised

Greater Hume Shire Council in order to provide for the expedient exercise and performance of its powers and duties and the efficient management of its business and responsibilities hereby delegates under Section 377 of the Local Government Act, 1993, to the person specified by resolution of the Council to have the functions of the GENERAL MANAGER, STEVEN PINNUCK and to the person holding the aforementioned position in an acting capacity the exercise of Council's powers, functions, duties and authorities contained in legislation and matters specified in Schedule 1 subject to the limitations specified in Schedule 2. This delegation shall commence on 26 September 2018 and remain in force until specifically altered or revoked in writing in accordance with a resolution of the Council.

Schedule 1

General

- Functions which relate to the role of the General Manager as specified in the Local Government Act 1993 its Regulations, Cognate and related legislation.
- For the purposes of Section 381 of the Act, The General Manager's delegated authority to act on behalf of Council includes all functions and powers conferred or imposed by any of the legislation set out from time to time in Section 22 of the Act, including but not limited to the following:
 - Biosecurity Act 2015
 - Companion Animals Act 1998
 - Companion Animal Regulation 2008
 - Crimes Act 1990
 - Community Land Development Act 1989
 - Conveyancing Act 1919
 - Contaminated Land Management Act 1997
 - Crown Lands Act 1989
 - Crown Lands Regulation 2006 and Crown Lands (General Reserve) By-Law 2006
 - Environmental Planning and Assessment Act 1979
 - Environmental Offences and Penalties Act 1989
 - Environmental Protection and Biodiversity Conservation Act 1999
 - Fines Act 1996
 - Fire Brigades Act 1989
 - Food Act 2003
 - Government Information (Public Access) Act 2009
 - Heritage Act 1977
 - Impounding Act 1993
 - Impounding Regulation 2008
 - Land Acquisition (Just Terms Compensation) Act 1991

- Land and Environment Court Act 1979
 - Library Act 1939
 - Local Government (General Regulation) 2005
 - Protection of the Environment Operations Act 1997, Protection of the Environment Operations Regulation 2000, Protection of the Environment Operations Amendment Act 2005 (POEO Amendment Act)
 - Public Health Act 1991
 - Recreation Vehicles Act 1983
 - Protection of the Environment Operations Act 1997
 - Protection of the Environmental Operations (Clean Air) Regulation 2010
 - Protection of the Environmental Operations (Noise Control) Regulation 2008
 - Protection of the Environmental Operations (Waste) Regulation 2005
 - Public Health Act 1991
 - Roads Act 1993
 - Roads Regulation 2008
 - Roads Rules 2008
 - Roads Transport (Safety and Traffic Management) Act 1999
 - Roads Transport (Safety and Traffic Management) Regulation 1999
 - Road Transport (General) Act 2005
 - Road Transport (General) Regulation 2005
 - Rural Fires Act 1997
 - Rural Fires Regulation 2008
 - State Emergency and Rescue Management Act 1989
 - Swimming Pool Act 1992
 - Threatened Species Conservation Act 1995
 - Unclaimed Money Act 1995
- Functions which relate to the role of the General Manager as specified in Council's adopted Codes, Policies and Procedures.
 - Functions relative to the achievement of performance objectives as listed in the General Manager's employment contract.
 - Authority to prepare submissions and make representations to Members of Parliament, Ministers of the Crown and Government Departments in accordance with policy and the best interests of Council.
 - Authority to execute documents, contracts and agreements on behalf of Council including those requiring the affixing of the Common Seal of the Council.
 - To affix the Common Seal of the Council in conjunction with the Mayor or Deputy Mayor to any necessary document pursuant to or consequent upon any decision of Council.

Administration

- To fulfill the responsibilities of Public Officer as defined in the Local Government Act 1993.
- To carry out the role of Privacy Contact Officer of Council.
- To carry out the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with any policy or resolution of the Council.
- To perform or authorise any action necessary to comply with any decision, policy or code of Council, any statutory requirements of the local Government Act or regulation or any other law, rule or regulation affecting Council.
- Reject any application within the prescribed period if it is not clear as to the approval sought or if it is not easily legible.
- Request any additional information that is reasonably necessary to determine any application.
- Subject to Council for its consideration any application or submission for a review of any decision or determination.
- To sign purchase orders on Council's behalf.
- To approve the use and arrange the lettings of the Council Chambers, meeting rooms and administrative buildings and approve or refuse such applications and apply any conditions of approval considered necessary.
- Authorised key personnel officer for the provision of Aged Care Services (as required by the Australian Government's Department of Health and Ageing) including authorisation to complete returns and legislative reports pertaining thereto.
 - Authorised representative to contact Centrelink and Department of Veteran Affairs with regard to confirming hostel bonds.
 - Nominated as the Authorised Officer under the Companion Animals Act 1998, No. 87.
 - Sign documentation on behalf of Family Day Care requiring the signature of the Coordinator and/or representative of the Licensee including funding agreements, grant applications and quarterly funding agreements.
 - Act as Council's Public Officer with authority to accept, consider and determine GIPA applications.
 - Reject any application within the prescribed period if it is not clear as to the approval sought or if it is not easily legible.
 - Request any additional information that is reasonably necessary to determine any application.
 - Subject to Council for its consideration any application or submission for a review of any decision or determination.

Animals

- Nominated as the Authorised Officer under the Companion Animals Act 1998, No. 87.

Animal Control

- To impound or seize any animals in accordance with the provisions contained in the Companion Animals Act 1998.
- To issue Penalty Infringement Notices where owners fail to comply with the necessary provisions of the Companion Animals Act 1998.
- To impound straying stock or abandoned articles in accordance with the provisions of the Impounding Act 1993.
- To make determinations in relation to declarations of dangerous dogs, objections from owners of proposed dangerous dogs and revocation of dangerous dog declarations (including restricted, menacing and nuisance dog orders in accordance with the Companion Animals Act 1998.

Approvals

- To consider any application for approval for any item in the Table of Approvals in Chapter 7 of the Local Government Act 1993:
 - 1) If in the opinion that such application can be approved, grant such approval either conditionally or subject to conditions, or
 - 2) If of the opinion that such applications should be refused report such matter to Council for its determination.
- Submit to Council for its determination any application "for approval in principle" or "stage approval".
- To approve of the use of swimming pools, recreation areas, etc., for any legitimate purpose and to accept and arrange lettings of the Council Chambers, and Administrative Buildings and approve or refuse such applications and apply any conditions of approval considered necessary.
- To grant approval for conduct of Street Stalls/Door Knock Appeals and allocate dates to applicant bodies.
- To approve the use of roads and streets for charitable and other legal purposes.
- Approve of the holding of festive celebrations such as Carols by Candlelight and the like in Council's Parks and Gardens.
- The power to determine an objection under Section 82(3) of the Local Government Act 1993 in relation to Council's Local Approvals Policy.

Biosecurity

- Appoint Authorised Officers under the *Biosecurity Act 2015* (the Act), pursuant to section 372 of the Act.

Building

- Make determinations in regard to the provisions of the Building Code of Australia (Administrative Provisions).
- To approve applications for Construction Certificates which comply in all respects with the Building Code of Australia, the Local Government Act 1993, as amended by the Environmental Assessment Act 1979 and Regulations, Council's Planning Controls and Policies and do not depart from the conditions and plans of development consent.
- The function of making recommendations for the purposes of Section 5 (1A) of the Building Professionals Act 2005 (Accreditation of Council Building Surveyors).

Bush Fire Hazard Reduction

- To make determinations, serve notices and review objections to notices where bush fire hazard reduction works are considered appropriate in accordance with Division 2 of the Rural Fires Act 1997.

Business Papers

- To determine the matters which are to be included in the Business Papers subject to the inclusion of the following items whenever they arise, namely:-
 - a) Reports on matters which cannot be determined under Delegated Authority.
 - b) Reports required to be submitted under any Act or regulation.
 - c) Reference to any deputations which the Council has agreed to receive.
 - d) Matters requiring a determination of policy.
 - e) Reports directed by Council to be submitted.
 - f) Matters essential for the Councils information.
 - g) Matters requiring a vote of money.
 - h) Matters where the General Manager is of the opinion that any application should be refused.

Certificates

- To issue any Certificate for which provision is made for the issue of Certificates by the Council under any Act or Regulation.
- To issue Certificates under section 603 of the Local Government Act, on behalf of Council.

Child Care

- Be authorised to undertake requirements as the Child Protection Disclosure Officer under the Child Protection (Prohibited Employment) Act, 1998 and Council's Child Protection Policy and Procedures.

Communications

- To respond to media publicity on Council matters and to issue media releases and make statements to the media on behalf of Council if the Mayor is unavailable or if the Mayor so authorises.

Contracts

- To sign Contracts for the sale and purchase of land where the sale or purchase has been approved by Council.
- To approve and sign lease agreements for aged accommodation and low income rental properties.

Correspondence

- To reply to all routine correspondence not involving a monetary vote by Council, not effecting Council policy and not requiring the consideration of Council.

Dogs

- To declare a dog "dangerous" in accordance with the Companion Animals Act.

Environment

- Be authorised to issue Self Enforcing Infringement Notices under the Environmental Offences and Penalties Act.

Finance

- To authorise the payment of salaries and wages of the employees of the Council within the sums voted by the Council for expenditure thereon.
- To authorise payment of accounts in respect of works or votes authorised by Council or associated with the functions of Council.
- Determine requests for in kind assistance from locally based, not-for-profit organisations and citizens of the Shire where such works can be reasonably accommodated with the programs and budget of Council.
- To approve applications for extension of time to pay accounts where acceptable case is made out.
- To invest surplus Council funds in accordance with section 625 of the Local Government Act, Local Government Regulations and Council Policies.
- To sign cheques drawn on Council's bank account and authorise and transmit electronic transfers from Council's bank account in conjunction with any other person authorised to sign cheques or electronic transfers on Council's behalf.
- Refund of Trust Fund Deposits including Contract Deposits on the recommendation and certification of the appropriate servant.

Food Act 2003

- Pursuant to Section 377(1) of the Local Government Act 1993 Council resolve to delegate to the General Manager the power to appoint authorised officers under Section 114 of the Food Act 2003.
- Pursuant to Section 377(1) of the Local Government Act 1993 Council resolve to delegate to the General Manager the power to serve Prohibition Orders under Section 60 of the Food Act 2003.
- Pursuant to Section 378(a2) of the Local Government Act 1993, and conditional upon advice from the NSW Food Authority, Council resolve to approve the General Manager to sub-delegate the power to serve Prohibition Orders under Section 60 of the Food Act 2003 to the Director, Planning and Environment.
- Pursuant to Section 381(3) of the Local Government Act 1993 Council resolve to approve the NSW Food Authority's delegation to the General Manger to provide written approvals for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clauses 15 and 17) and Standard 3.2.3 (clauses 10 and 14).
- Pursuant to Section 109E of the Food Act 2003, and conditional upon approval from the NSW Food Authority Council resolve to approve the General Manager to sub-delegate the power to provide written approvals for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clauses 15 and 17) and standard 3.2.3 (clauses 10 and 14) to the Director, Planning & Environment.

Grants

- Submit grant applications on Council's behalf subject to any budgetary commitment being consistent with Council's Management Plan and Annual Budget.
- Sign Income and Expenditure Statements in relation to Grant applications.

Impounding

- To be an impounding Officer in terms of the Impounding Act 1993 and to implement the objects of the Act and carry out all functions of the Act as outlined in Section 3.

Insurances

- To affect appropriate and adequate property and indemnity insurance in respect to any property of or under the control and management of Council or any civil liability of Council which may arise in connection with the exercise of its powers and authorities, duties or functions.
- Sign insurance claim forms on behalf of Council.
- Negotiate settlement of all insurance claims up to the current excess applicable to each policy.

Legal Proceedings

- Institution of:-
 - a) To authorise the issue of any penalty notice on the laying of any information or complaint or the institution of any other proceedings pursuant to the Local Government Act for the recovery of any penalty or the making of any ORDER for or in respect of any offence, nuisance or any other matter or thing whatsoever which the Council might be entitled to recover to seek under any Act or Regulation.
 - b) In respect to the institution, conduct and defence of legal proceedings concerning Councils activities in any Court to instruct and engage Council's Solicitors and counsel where necessary.
 - c) Lay information and appear in Court on behalf of Council in respect of any offence which prosecution is authorised by Council or provided by section 684 and 687 of the Local Government Act.
- To obtain legal advice from Council's Solicitors or counsel where considered necessary.
- Authorise the institution of legal proceedings for the recovery of all outstanding rates and other debts owing to Council and take all necessary action to recover such debts in accordance with Council Policy, after consultation with Director Corporate & Community Services.
- Sign Court documentation and Summonses to the point of Garnishee Action. After consultation with Director Corporate & Community Services.

- Represent Council at proceedings in any court of competent jurisdiction in relation to the recovery of outstanding rates and all other charges in accordance with the provisions of Section 687 of the Local Government Act, 1993 after consultation with Director Corporate & Community Services.

Loans

- Make applications for loan funds on behalf of Council to various lending authorities up to the maximum borrowing limit as determined by the Department of Local Government and in accordance with the Council Management Plan and Council resolutions.

Orders

- In accordance with Section 124 of the Local Government Act 1993 and Section 121 of the Environmental Planning & Assessment Act 1979 to give notice to any person to whom in the opinion of the General Manager an Order should be given in respect of any matters contained in any Act or regulation that Council intends to issue an Order.
- To issue an order in accordance with the above notice and to report to Council the circumstances where an order has been issued.

Note

This delegation shall include but is not limited to the following Acts:-

- Companion Animals Act 1998
- EPA Act 1979
- Food Act 1989
- Impounding Act 1993
- Noxious Weeds Act 1993
- Protection of Environment Operations Act 1997
- Public Health Act 1991
- Roads Act 1993
- Swimming Pools Act 1992
- Waste Avoidance and Resource Recovery Act 2001

Planning

- Sign linen plans of subdivision upon certification that all Council requirements have been complied with or that satisfactory bonding arrangements have been entered into.
- Council accept the offered delegation for plan making function under Section 59 of the Environment Planning and Assessment Act 1979 made by the Minister for Planning and Infrastructure under Section 23 of the Environment Planning and Assessment Act 1979. In accordance with Section 381 of the Local Government Act 1993 Council delegate the offered plan making functions under Section 59 of the Environment Planning and Assessment Act 1979 to the General Manager.

- In accordance with Section 381 of the Local Government Act 1993 should the General Manager concur, the plan making function under Section 59 of the Environment Planning and Assessment Act 1979 be sub-delegated to the Director Environment and Planning.
- To approve of all Development Applications within the Greater Hume Shire Council and in accordance with Council's Local Environmental Plan subject to the following:
 - a) Where objections are received following notification procedures, application be brought to Council's attention. In situations where an objection is considered by the General Manager (in consultation with the Director Environment and Planning) to be vexatious in nature, then such will not act as a trigger for referral of the application to Council.
 - b) Any application recommended for refusal (except where refusal is recommended following two written requests seeking further information and that information has not been provided within the requested time frame).
 - c) Any application where the applicants seeks to depart from the standards contained in a development Control Plan or policy of Council (except for minor variations).
 - d) Any application where the applicant is objecting to a development standard contained in a local planning instrument in accordance with State Environmental Planning Policy (SEPP) 1.
 - e) Any application considered by the General Manager (in consultation with the Director, Environment and Planning) to be of significant public interest.
- Applications approved under this delegated authority shall be reported to the next monthly meeting of Council.
- Approve Complying Development Certificates.
- In relation to delegation of waiving of non-compliance with the Greater Hume Development Control Plan 2013:
 - a) in accordance with Section 377 of the Local Government Act 1993 Council delegate to the General Manager the ability to waive areas of non-compliance with the GHDCP 2013 where no submissions have been received to the neighbour notification of development applications and the objectives of the GHDCP 2013 are met; and
 - b) Council note that the General Manager will sub delegate this function to the Director Environment and Planning under Section 378 of the Local Government Act 1993.

Plumbing and Drainage Act

- in accordance with Section 381 of the Local Government Act 1993, Council delegate the offered functions under Section 21 of the Plumbing And Drainage Act 2012 to the General Manager.
- in accordance with Section 381 of the Local Government Act 1993 should the General Manager concur, the functions under Section 21 of the Plumbing And Drainage Act 2012 be sub-delegated to the Director Environment and Planning, Council's Building Surveyor and Environmental Health and Building Surveyor.
- Council authorise the affixing of the common seal upon all return correspondence to NSW Fair Trading.

Powers of Entry and Inspection

- To grant from time to time to any employee of the Council the authority vested in Council under the provisions of the Local Government Act or any other Act to enter and inspect premises and to carry out works deemed necessary.
- To enter upon any land or building, for the purpose of making an inspection, under any Act of Parliament, or any rule, Regulation, Ordinance or Bylaw under or pursuant to any such Act.

Private Works

- To reach agreement with the owner or occupier of any private land to carry out private works on the land in accordance with any fee scale set by Council.

Rating

- To categorise all rateable land according to Section 514 of the Local Government Act 1993.
- Determine the eligibility for farmland rating in accordance with section 515 of the Local Government Act 1993 subject to appeals against eligibility being referred to Council.
- To prepare and serve rate notices at any time following the making of the rate by Council.
- In relation to payment of rates by instalments to determine if extenuating circumstances exist when instalment payments are not made by the due date and decide whether the instalment will be accepted as a bonafide payment.
- To authorise the Institution of Legal Proceedings for the recovery of outstanding rates and other debts due to the Council.
- To amend or alter the rate book where necessary.
- To adjust, recover or refund rates in respect to land owned by the Crown.
- To issue rate notices requiring rents due and payable on land to be paid to Council in liquidation of outstanding rates.
- Authority to authorise the writing off of rates and charges where the amount of any individual rate or charge is less than \$1,000.

Records - Destruction and Disposal of

- Subject to any reasonable requests or lawful direction to the contrary to destroy or dispose of by other means, records of the Council subject to the requirements of any Act or regulation and the general records disposal schedule for Local Government Records in New South Wales.

Roads

- That the General Manager be an authorised Officer in terms of Section 251 of the Roads Act 1993.

- That the General Manager be the authorised Officer pursuant to Section 121(1) of the Road Transport (General) Act 2005 for the purpose of the following sections:

- Section 136: Direction to stop vehicle or combination: to enable exercise of other powers.
Section 137: Direction to move vehicle or combination: to enable exercise of other powers.
Section 138: Direction to move vehicle or combination: where danger or obstruction.
Section 140: Manner of giving directions under this Division.
Section 171: Authorised officer may require production of driver licence and name and address from driver or rider.
Section 173: Authorised officer may require responsible person for vehicle and others to disclose identity of driver who commits offence.

Service of Notices

- To serve on any person or body on behalf of the Council in the prescribed format any notices required by or under any Act or Regulation or consequent to any decision of Council.

Staff

- To authorise approval of leave of absence for all Staff of the Council.
- To apply to wages and salaries any automatic award variations basic wage variation or cost of living adjustments subject to official notification from the Local Government NSW or Fair Work Australia legislation or total financial resource allocation in Council's Annual Budget.
- To approve attendance by Council Officers and Staff at Conferences and Seminars which are conducted by or endorsed by the Division of Local Government and other relevant authorities and/or Local Government NSW.
- To approve attendance by Staff at training courses included in Council's Staff Training Programme together with associated User Group Meetings and for which funds are available in Council's Budget.
- To authorise Council Staff to attend Professional Conferences in accordance with Councils policy.
- Deal with industrial disputes.
- Grant authority for the placement or Work Experience students, subject to such authorisation being in accordance with Council's policy. Such authorisation is to be undertaken in conjunction with accepted Human Resource Management guidelines.
- Approve and authorise payment of salary and wages to members of staff including overtime and time in lieu of payment.

Swimming Pools

- To exercise the functions of the Council under the Swimming Pools Act, 1992 including the power to appoint "inspectors" to perform the duties empowered by the Act.
- Affixing of the Common Seal of Greater Hume Shire Council upon certificates of identification to Council staff involved in undertaking functions under the Swimming Pools Act 1992.

Schedule 2

1. Council may by resolution direct the General Manager in the exercise of any function herein delegated.
2. The General Manager shall exercise the functions herein delegated in accordance with and subject to:
 - a) the provisions of the Local Government Act, 1993, as amended
 - b) the policies of the Council adopted by Resolution and current at the time of the exercise of the functions herein delegated.
3. Submissions received in response to a notice of intention to serve a Section 18 Notice being referred to Council for consideration.

Adopted 17 August 2005
Minute No. 344
Amended 16 November 2005
minute no. 437
Reviewed 26 September 2007
Minute No. 1170
Amended 21 November 2007
Minute No. 1250
Amended 24 September 2008
Minute No. 1622
Amended 16 September 2009
Minute No. 2016
Amended 15 September 2010
Minute No. 2438
Amended 14 September 2011
Minute No. 2832
Amended 19 September 2012
Minute No. 3199
Revised 11 September 2013
Minute No. 3546
Readopted 17 September 2014
Minute No. 3880
Readopted 16 September 2015
Minute No. 4175
Readopted 21 September 2016
Minute No. 4483
Revised 20 September 2017
Minute No. 4807
Revised 26 September 2018
Minute No. 5081

Bribes, Gifts & Benefits Policy

Document Name	Document Version Number	Review Date
Bribes, Gifts & Benefits Policy	1.0.2	June 2018
Date Adopted	Minute Number	Status
22 June 2016	4395	Re Adopted, No Alterations

Purpose

This policy has been produced to guide Councillors and staff who may be offered gifts, benefits or bribes in the course of their official duties. The acceptance of gifts and benefits is a problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts and benefits can be difficult.

Scope

This policy applies to all Councillors, staff and delegates of Greater Hume Shire Council.

Definitions

Nil.

Policy Content

A Councillor, member of staff or delegate must:

1. not seek or accept a bribe, or other improper inducement;
2. not take advantage of his or her official position to improperly influence other councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing a private benefit for himself or herself or for some other person;
3. generally not by virtue of his or her official position accept or acquire a personal profit or advantage of a pecuniary value; however they may:
 - a. accept a nominal value (low value) gift or benefit.
 - b. accept a more than nominal value (high value) gift or benefit in special circumstances, eg an item left to you in someone's will, with the approval of Council. You would need to contact your supervisor to arrange a formal report to Council.

Bribes

Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will take steps to report the matter to ICAC and the police immediately.

Gifts and Benefits

In a private context, gifts are usually unsolicited and meant to convey a feeling on behalf of the giver, such as gratitude. There is ordinarily no expectation of repayment. Gifts given in a private context are not the focus of this policy.

Gifts are also offered to individuals in the course of business relationships. Such gifts are usually given for commercial purposes; for example, to create a feeling of obligation in the receiver.

Bribes, Gifts & Benefits Policy

It is Council's preferred position that:

- gifts and benefits not be offered to Councillors, staff and delegates.
- gifts and benefits are not to be solicited.
- gifts and benefits should be actively discouraged by Councillors, staff and delegates.
- people doing business with Council should understand that they do not need to give gifts or benefits to Councillors, staff and delegates to get high quality service.

Gifts and benefits fall into two categories, those that are more than nominal value and those of nominal value (see definitions below).

Gifts below nominal value (token) can be accepted without disclosing details to a supervisor, the General Manager or the Mayor (in the case of Councillors).

For the purposes of this policy "nominal value" is described as goods and/or services which have nominal value (ie less than \$150.00).

Generally speaking, nominal (token) gifts and benefits may include:

- Gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- Free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business.
- Free meals, of a modest nature, and/or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions and workshops.
- Refreshments of a modest nature, provided at conferences where you are a speaker.
- Ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages.
- Invitations to appropriate out of hours "cocktail parties" or social functions organized by groups, such as, Council Committees and community organisations.

Nominal value gifts and benefits may only be accepted if the gift is not likely to be seen as compromising Councillors or employees. If you have any doubt if the gift/benefit is nominal (token) or not you should discuss it with your Director or the General Manager.

On the rare occasion that gifts, with more than a nominal value value, are accepted, the details of the gift must be disclosed and recorded in the publicly available gifts and benefits register held by Council. These gifts become the property of Council and should be disposed of accordingly.

More than nominal (non token) gifts and benefits are those with a significant value.

You must never accept an offer of money, regardless of the amount.

Generally speaking, more than nominal (token) gifts and benefits may include:

- Tickets to major sporting events
- Corporate hospitality at a corporate facility at a sporting venue
- Discounted products for personal use
- The frequent use of facilities such as gyms
- Use of holiday homes
- Free or discounted travel
- Free training excursions
- A new job or a promotion
- Preferential treatment, such as queue jumping
- Access to confidential information

Bribes, Gifts & Benefits Policy

- Goods and items donated to Council and employee functions.

If you receive a gift of more than nominal (token) value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to your supervisor, the Mayor or the General Manager. The supervisor, Mayor or General Manager will ensure that the gifts received are recorded in a Gifts Register.

You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

Councillors, staff and delegates who receive more than two nominal gifts from one source must disclose that fact in the gifts and benefits register.

BRIBES

Councillors, Staff and Delegates must not offer or seek a bribe.

Receiving a bribe is an offence under both the common law and NSW legislation. The common law offence of bribery is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity.

Section 249B(1) of the Crimes Act 1900 (NSW) creates an offence if any employee corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person any benefit as an inducement to do, or not do, something in relation to their official duties. Similarly, it is an offence for an employee to corruptly receive or solicit (or corruptly agree to receive or solicit) any benefit that would in any way tend to influence that employee to show favour or disfavour to any person in relation to their official duties.

Section 249J of the Crimes Act also provides that custom is not a defence to the receiving, soliciting, giving or offering of any benefit. This means that a person cannot rely on the fact that it is customary to offer and receive gifts and benefits in his or her trade, business, profession or calling, as a defence.

Comment: Any Councillor, Staff or Delegate offered a bribe should immediately report to their supervisor, General Manager or the Mayor (in the case of Councillors). Council will then refer the matter to the ICAC and the Police.

Links to Policy

Model Code of Conduct Policy
Procurement Policy
Bribes, Gifts and Benefits Policy

Links to Procedure

Procurement Procedure



Bribes, Gifts & Benefits Policy

Links to Forms

Procurement – Record of Verbal Quotations Form – Form 1
Procurement – Quotation Approval Form – Form 2
Bribes, Gifts and Benefits Register Form

References

Nil

Responsibility

Councillors, staff and delegates

Document Author

Director Corporate & Community Services

Relevant Legislation

Local Government Act 1993
Crimes Act 1900
Independent Commission Against Corruption Act 1988

Associated Records

Nil.



DRUG & ALCOHOL POLICY

POLICY No:	14
POLICY TITLE:	DRUG & ALCOHOL POLICY
SECTION RESPONSIBLE:	CORPORATE & COMMUNITY SERVICES (HUMAN RESOURCES)
MINUTE No:	402
REVIEW DATE:	30TH JUNE, 2006

OBJECTIVE:

Council is obliged under the Occupational Health & Safety Act to provide a safe work place and safe work practices for all employees. Staff that are under the influence of drugs and/or alcohol whilst on duty pose a risk to themselves, their fellow workers and the public. The purpose of this policy is to ensure that a satisfactory level of employee health, safety and work performance is maintained.

This policy will apply to all full-time, part-time and casual staff of Greater Hume Shire Council. The policy will also apply to all volunteers undertaking bona-fide Council activities.

POLICY STATEMENT

All employees share responsibility for maintaining a safe alcohol and drug free work environment. Any employee who has reason to believe that a fellow employee, a contractor, a contractor's employee or a visitor to the work site is in a state of intoxication or under the influence of drugs shall immediately notify his or her supervisor. Employees must also notify their supervisor if they are aware of the possession or consumption of alcohol or illegal drugs on the work site.

The consumption of alcohol or illegal drugs in any item of clothing that identifies the person as a Council employee during the span of working hours (including lunch breaks) is not permitted.

Employees are also not to use a Council badged vehicle for the purpose of purchasing alcohol unless authorised. The use of a Council vehicle for the purpose of purchasing illegal drugs will not be permitted.

DRUG & ALCOHOL POLICY

Council will not tolerate any employee:

- Consuming alcohol during paid working hours without authorisation;
- In possession of or consuming illegal drugs on Council premises or work sites at any time;
- Presenting for duty in an unfit state;
- Affected by drugs (legal or illegal) or alcohol during working hours.

Employees found to be in breach of any of the above requirements will be subject to disciplinary action in accordance with the procedures laid down in the Local Government (State) Award.

Police will be informed of all instances involving suspected illegal drugs. Staff found to be in possession of illegal drugs or substances will face disciplinary action which may lead to dismissal.

Council is opposed to the consumption of alcohol or other intoxicating substances directly before or during the work day, including lunch or other breaks. Consumption of such substances could present a safety hazard, inhibit the operations of Council, or affect Council's public image.

DECLINE IN PERFORMANCE DUE TO ALCOHOL OR DRUG DEPENDENCY

Neither the supervisors or union representatives have the qualifications to diagnose an alcohol or other drug problem. Therefore, referral for diagnosis and treatment will be based on job performance only.

Supervisors will as a matter of course offer assistance to obtain professional help to any employees whom they are counselling about work performance problems, not just those cases that are suspected of being alcohol and drug related.

Referral of an employee with work performance problems could be initiated by the Supervisor, Personnel Services, or self referral by the employee.

Persons participating in an assistance program will be expected, within a reasonable period, to re-attain satisfactory job performance levels and adhere to established work rules. Where performance is repeatedly affected Council may initiate disciplinary action.

PRACTICE

SUPERVISOR AND EMPLOYEE OBLIGATIONS

It is the responsibility of all Supervisors and employees to ensure that no employee commences or continues duty if, the employee appears to be affected by alcohol, illegal drugs, medication or other substances which may reasonably be considered to lead to a safety risk or an inability to fulfil the requirements of the position.

EMPLOYEE OBLIGATION TO PRESENT FOR DUTY IN A FIT STATE

Employees are obliged to present for work in a fit state so that in carrying out normal work activities they do not:

DRUG & ALCOHOL POLICY

- expose themselves, their co-workers or the public to unnecessary risks to health and safety or
- inhibit their ability to fulfil the requirements of the position or
- present a poor public image of Council.

The employee is responsible for any civil or criminal penalty which results from being under the influence of drugs or alcohol in the workplace.

If a Director or Supervisor has justifiable cause to doubt an employee's fitness for duty, Council reserves the right to remove the employee from the work site and where appropriate offer a medical examination and/or blood test at Council's expense to determine fitness for duty. The disciplinary provisions of the Local Government (State) Award will be followed.

PRESCRIBED DRUGS OR MEDICATION

Where an employee is on a course of prescribed or over the counter medication that may induce drowsiness or impaired performance they must notify the Supervisor prior to commencement of duty. The employee should find out from their doctor or pharmacist what the effects of the prescribed drugs are on work performance.

APPROVED FUNCTIONS

In special circumstances such as Council meetings, retirement of employees, Christmas parties, or other similar work functions, the General Manager or relevant Director may approve the consumption of alcohol during working hours and on Council property. In all such circumstances permission is to be obtained prior to the event and employees are to ensure that they return to duty in a fit state to carry out their normal duties.

EMPLOYEE ASSISTANCE

Council recognises that alcohol and drug dependency is a treatable condition and encourages employees with personal or other problems to seek counselling or treatment. Participation by an employee in a treatment program will be regarded as confidential.

DRUG & ALCOHOL POLICY

PROCEDURE

A) EMPLOYEES UNDER THE INFLUENCE

Should the Supervisor consider that an employee is affected by alcohol or drugs to the extent that safety, operational and/or public image problems may arise they should follow the steps outlined below.

- Step 1 Speak to the employee, away from the hearing of others, and advise them that from their actions their work performance would be or is being noticeably affected. Advise the employee that they may request union representation at any time throughout the process.
- Step 2 Seek clarification/explanation from the employee for the purpose of identifying the reason for the behaviour. The types of questions that may be asked are as follows:
- What is the reason for your behaviour?
 - Are you feeling ill? If yes what are the symptoms?
 - Are you under a doctor's care? If yes, what are you being treated for and when did you last visit the doctor?
 - Are you taking medication? What medication and when was your last dosage?
 - Do you have a medical problem that may be causing this behaviour?
 - Are you using any types of drugs? If yes:
 - What? When? Where? How much?
 - Did you drink alcohol or an alcoholic beverage today? If yes:
 - What did you drink? How much? When did you start? When did you stop? Where did you drink? With whom did you drink?
- Step 3 If the Supervisor is of the opinion that the employee is not in a fit state to undertake their duties then the employee should be advised that they are not to engage in any further work and where the employee is located on a work site, they should be taken to a safe area (preferably a Council facility).
- Step 4 The relevant Director should then be contacted to meet with the employee and Supervisor to discuss and evaluate the situation, in order to meet Council's obligation under the O. H. & S. Act and Council's work standards and practices. The employee may have a union representative present at this meeting on request. At this stage the Director should initiate any reasonable action that is necessary.

Each case is to be treated on merit and where appropriate action may include:

DRUG & ALCOHOL POLICY

- a) Advise the employee that on the next day or as soon as possible after the event the incident will be discussed with themselves, the relevant Supervisors and the union representative if requested.
- b) Take possession of any Council vehicle or plant.
- c) Offer alternative transport and advise the employee to go home and/or offer a blood test and/or medical to arbitrate the situation. (Payment for time lost will be at the discretion of the Director and will be dependent on the merits of each individual case).
- d) If it is believed that the use of drugs or alcohol renders a risk to the health and safety of the employee, co-workers or the public, remove the employee from duty pending an urgent medical examination and/or blood test to determine fitness. An employee may elect to be tested by a doctor of their choice at their own expense. In these circumstances, employees are to be accompanied by a Supervisor or Director who should remain at the surgery for the duration of the testing. Results are to be treated in a confidential manner.
- e) If test results show evidence of use of alcohol and/or drugs offer the employee assistance to obtain counselling.
- f) As appropriate to the situation disciplinary action may be taken in accordance with the Local Government (State) Award.

If it is known that an employee is affected by prescription or over the counter medication they should be either allocated duties that will not place themselves or others at risk or, if such duties are not available, be asked to return home on sick leave and obtain a certificate from a medical practitioner declaring fitness for duty.

B) IN POSSESSION OR CONSUMING

Where an employee is found to be consuming alcohol without prior approval or in possession of or consuming illegal substances the Supervisor should:

1. Inform the employee/s they are in breach of Council Policy.
2. Stop the employee/s from working and arrange a meeting with the relevant Director immediately.
3. If the incident involves suspected illegal drugs the matter will be reported to the Police by the relevant Director.
4. If the allegation is substantiated after investigation appropriate disciplinary action will be undertaken.

DRUG & ALCOHOL POLICY

C) DECLINE IN GENERAL PERFORMANCE DUE TO ALCOHOL OR DRUG DEPENDENCE

Where employees suffer a decline in general performance due to alcohol or drug dependence they will be assessed and counselled as set out below in accordance with Clause 25. C. of the Local Government (State) Award 2004.

At any of the following stages the employee may request union representation.

Procedural fairness must be observed at each stage.

Stage 1 – Supervisor

- Discuss the performance related reasons for the interview and give the employee the opportunity to respond.
- State what standards of performance are required or expected.
- Offer assistance by referring the employee to an appropriate agency or encourage the employee to seek professional assistance. (Remember it is the employees decision whether or not to see a counsellor).
- Set a time frame for a review of performance. Inform the employee of expected changes, ongoing monitoring and the possible consequences if there is no significant improvement.
- Prepare a summary of the interview and give two copies to the employee. The employee should sign one of the copies and return it to the Supervisor together with any notations regarding the content of such record. The copy should be placed under confidential cover on file.

REVIEW

- If all aspects of work performance and related matters have met standards and expectations acknowledge this.
- If no noticeable improvement advise the employee that the matter will be referred to the second stage.
- If there is some improvement in identified areas and no decline in other performance standards set a further remedial time frame for review.
- Action and distribute a summary of the interview as above.

DRUG & ALCOHOL POLICY

Stage 2 – Supervisor and Director

- Provide details of unsatisfactory work performance and the steps that were taken to address the issues in writing. Give the employee the opportunity to respond to the issues raised.
- Restate the performance standards required or expected.
- Repeat any previous offer of assistance.
- Set a time frame for review. Inform the employee of expected changes ongoing monitoring and possible consequences if no significant improvement and that this represents a final warning.
- Action and distribute a summary of the interview to all parties present.

Review

- If all aspects of work performance and related matters have met standards and expectations acknowledge this.
- If no noticeable improvement advise the employee that the matter will be referred to the final disciplinary stage. Confirm this advice in writing.
- If there is some improvement in identified areas, no decline in other performance standards, and no identification of new areas of performance deficiency set a further remedial time frame for review.
- Action and distribute a summary of the interview as above.

Stage 3

- Restate details of unsatisfactory work performance and the steps that were taken to address the issues. Give the employee the opportunity to respond to the issues raised.
- Restate the performance standards required or expected.
- Repeat any previous offer of assistance.
- Issue a final warning in writing giving notice of disciplinary penalties should unsatisfactory work performance or conduct not cease immediately.

POLICY DOCUMENT CONTROL:

Drug and Alcohol Policy	Adopted 19Oct05 Minute 402
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Alcohol & Other Drugs Policy

Document Name	Document Version Number	Review Date
Alcohol & Other Drugs	1.0.0	September 2023
Date Adopted	Minute Number	Status
25 September 2019	Insert Minute Number Here	Major Revision

Purpose

Greater Hume Council (GHC / Council) is responsible for ensuring the health and safety of all workers carrying out work for Council and also to ensure that the health and safety of other persons is not put at risk by the work being carried out.

In the workplace, workers are responsible for their own health and safety and for that of other persons, including being fit for work and being able to safely perform the inherent requirements and demands of their position or the work they were engaged to perform.

The purpose of this policy is to ensure that all workers are fit for the work they are required to perform in order to maintain a satisfactory level of health, safety and work performance, which is not impaired by alcohol or other drugs (AOD).

Scope

This policy applies to all workers in GHC workplaces.

Definitions

AOD means Alcohol and Other Drugs.

Council means Greater Hume Council (GHC), ABN: 44 970 341 154.

Employee refers to an individual who works under a contract of employment with GHSC. For the purpose of this policy, this does not include: a contractor or subcontractor; an employee of a contractor or subcontractor; an employee of a labour hire company who has been assigned to work in the business or undertaking; a student gaining work experience; a volunteer; or a person involved with an employment scheme (such as work for the dole, etc).

GHC means Greater Hume Council or Council, ABN: 44 970 341 154.

Industry Parties refers to Local Government NSW (LGNSW) United Services Union (USU) Local Government Engineers Association (LGEA) and Development & Environmental Professionals Association (DEPA)

Inherent requirements and demands of the position refers to the requirements and demands of the employee's substantive position at their substantive workplace at which they are employed. This is also referred to as the employee's pre-injury duties.

Worker has the same meaning as Worker under Section 7 of the Work Health and Safety Act 2011, being: an employee; a contractor or subcontractor; an employee of a contractor or subcontractor; an employee of a labour hire company who has been assigned to work in the person's business or undertaking; an outworker; an apprentice or trainee; a student gaining work experience; a volunteer; or a person of a prescribed class.

Workplace means a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. Workplace includes:

- a vehicle, vessel, aircraft or other mobile structure, and
- any waters and any installation on land, on the bed of any waters or floating on any waters, in accordance with Section 8 of the Work Health and Safety Act 2011.

Alcohol & Other Drugs Policy

Policy Content

1. Statement of Intent

Council along with relevant industry parties (the “**industry parties**”) recognise that the inappropriate use of alcohol and/or other drugs is a significant problem that can affect a worker’s performance and jeopardise their health, safety and welfare as well as that of their co-worker’s and other people in the workplace.

2. How This Policy Was Developed

The general content of this policy was developed by the industry parties. This cooperative approach followed a number of industrial disputes and a recognition that a policy developed cooperatively would assist the industry. Draft industry guidelines were prepared and trialled in five councils over a period of up to 6 months in 2011. For the purpose of the trial, random testing was available as an option and this option was adopted by the five councils. Whilst different conclusions may be drawn from the results of the industry trial, the industry parties nevertheless agreed to support this policy.

3. Aim

To establish clear and consistent procedures for addressing risks to health and safety in the workplace associated with the inappropriate use of alcohol and/or other drugs.

4. Issues to Consider

4.1 Safety in the workplace and fitness for work

Employers have a duty to ensure the health, safety and welfare of their workers and other people in the workplace (s19, Work Health and Safety Act 2011 (NSW)). Workers have a duty to take reasonable care for their own health and safety, as well as for the health and safety of other people in the workplace and to co-operate with their employer in providing a safe working environment (s28, Work Health and Safety Act 2011 (NSW)).

Workers are obliged to present themselves for work in a fit state so that in carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

The welfare of the individual and the health and safety of other people in the workplace needs to be considered.

There are penalties, under legislation for employers and the Award for workers who fail to take their Work Health and Safety responsibilities seriously.

4.2 Establishing a supportive culture

Any alcohol and other drugs procedures should promote a supportive culture in which workers are able to seek the assistance of their employer in a non-threatening environment. Councils should foster a supportive culture that encourages employees to accept individual responsibility for workplace health and safety and participation in disclosing to management the identity of workers who may be regarded as a risk to others.

Such an approach is supported by WHS legislation and the industry parties.

A supportive culture will encourage a co-operative approach between management and workers and build on the shared interest in workplace health and safety.

Council will achieve this supportive culture by: -

- Recognising that the inappropriate use of alcohol and/or other drugs can be due to illness (e.g. dependency) or symptomatic of an illness (e.g. depression); and
- Providing non-threatening assistance to workers who recognise that they have alcohol and/or other drug related problems (e.g. Council provides information and confidential access to an Employee Assistance Program); and

Alcohol & Other Drugs Policy

- Ensuring that clear and consistent processes are in place for addressing risks to health and safety in the workplace; and
- Respecting the privacy of workers by ensuring that appropriate systems are in place to maintain confidentiality.

5. General Conduct Obligations

Workers are obliged to present themselves for work in a fit state so that when carrying out their work activities they do not expose themselves, their co-workers or other people in the workplace to unnecessary risks to health and safety.

Council's *Code of Conduct* establishes the minimum requirements of conduct for council officials in carrying out their functions (a council official is defined to include Councillors, members of staff, administrators, conduct reviewers and delegates of council).

It is a requirement of the Code that council officials must not conduct themselves, when carrying out their functions, in a manner that is likely to bring the council or holders of civic office into disrepute. Council officials are expected to maintain high standards of professional conduct and service to the community and must act honestly and exercise a reasonable degree of care and diligence when carrying out their functions.

By way of example, a worker may be in breach of their general conduct obligations under the Code if they: -

- Attend for work whilst under the influence of alcohol and/or other drugs; or
- Conduct them-self in an inappropriate and/or unprofessional manner whilst at work or at a work related function (which may be due to the effects of inappropriate alcohol and/or other drugs use).

6. Alcohol and Other Drugs Testing

The details of procedures for testing and results of testing are contained within "*Greater Hume Council's Alcohol and Other Drugs Testing Procedure*".

Workplace alcohol and other drugs testing is a complex issue. Things to consider include: -

- **When to test** – Common examples of when A&OD testing is conducted include; upon reasonable suspicion that a person may be impaired (reasonable suspicion testing); following a workplace health and safety incident (post incident testing); randomly (random testing) and voluntary testing.
- **Types of tests** – Greater Hume Council will use: -
 - Breath test for alcohol testing,
 - Saliva for other drugs. Saliva testing can provide a positive result immediately after use and whose range of detectability is such that it is more likely to indicate potential and or actual impairment when compared to other testing procedures which can provide a positive result to substances days, weeks or months after last use/exposure, at which time the worker may not be impaired at work.
 - Urine testing for pre-employment only.
- **Worker privacy** – It is imperative that a worker's privacy be respected and that the results of A&OD testing are kept confidential. All information will be kept on the workers "personnel file" access to which is controlled under the Privacy and Personal Information Protection Act (1998).
- **Who to test** – Testing will be undertaken in accordance with "When to Test" as detailed above.

When random testing is undertaken, all workers including contractors on-site will be included

Alcohol & Other Drugs Policy

Links to Policy

Work Health & Safety Policy
Risk Management Policy
Workplace Health & Injury Management Policy
Safe driving Policy
Code of Conduct for Council Staff
Code of Conduct for Councillors

Links to Procedure

Alcohol and Other Drugs Procedure
Pre-employment and Exit Medicals Procedure
Employee Assistance Program Procedure

Links to Forms

Nil

References

AS3547:1997 – Breath Alcohol Testing Devices for Personal Use.
AS4760:2006 – Procedures for Specimen Collection and the Detection and Quantitation of Drugs in Oral Fluid.

Responsibility

General Manager

Document Author

Risk & Safety Coordinator

Relevant Legislation

The *Work Health and Safety Act 2011* (NSW); and associated Regulation
The *Road Transport (Safety and Traffic Management) Act 1999* (NSW); and associated Regulation
Local Government (State) Award - current edition

Associated Records

GHC Risk & WHS Management System (RWHSMS)

Greater Hume Shire Council

General Purpose Financial Statements

for the year ended 30 June 2019

Statement by Councillors and Management made pursuant to Section 413(2)(c) of the Local Government Act 1993 (NSW) (as amended)

The attached General Purpose Financial Statements have been prepared in accordance with:

- the *Local Government Act 1993* (NSW) (as amended) and the regulations made thereunder,
- the Australian Accounting Standards and other pronouncements of the Australian Accounting Standards Board
- the *Local Government Code of Accounting Practice and Financial Reporting*.

To the best of our knowledge and belief, these statements:

- present fairly the Council's operating result and financial position for the year
- accord with Council's accounting and other records.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 25 September 2019.

Councillor Heather Wilton

Mayor

25 September 2019

Councillor Doug Meyer OAM

Councillor

25 September 2019

Steven Pinnuck

General Manager

25 September 2019

Dean Hart

Responsible Accounting Officer

25 September 2019

Greater Hume Shire Council

Special Purpose Financial Statements

for the year ended 30 June 2019

Statement by Councillors and Management made pursuant to the Local Government Code of Accounting Practice and Financial Reporting

The attached Special Purpose Financial Statements have been prepared in accordance with:

- the NSW Government Policy Statement '*Application of National Competition Policy to Local Government*',
- the Division of Local Government Guidelines '*Pricing and Costing for Council Businesses – A Guide to Competitive Neutrality*',
- the Local Government *Code of Accounting Practice and Financial Reporting*,
- the NSW Office of *Water Best-Practice Management of Water and Sewerage Guidelines*.

To the best of our knowledge and belief, these statements:

- present fairly the operating result and financial position for each of Council's declared business activities for the year, and
- accord with Council's accounting and other records.
- present overhead reallocation charges to the water and sewerage businesses as fair and reasonable.

We are not aware of any matter that would render these statements false or misleading in any way.

Signed in accordance with a resolution of Council made on 25 September 2019.

Councillor Heather Wilton
Mayor
25 September 2019

Councillor Doug Meyer OAM
Councillor
25 September 2019

Steven Pinnuck
General Manager
25 September 2019

Dean Hart
Responsible Accounting Officer
25 September 2019

Volunteer Policy

Document Name	Document Version Number	Review Date
Volunteer Policy	Insert Version Number Here	Click Here to Enter Date
Date Adopted	Minute Number	Status
Click Here to Enter Date	Insert Minute Number Here	Select Status Here

Purpose

Greater Hume **Shire** Council recognises volunteers are an integral part of the organisation and a valuable asset to the community. The efforts of our volunteers represent a significant contribution towards the successful delivery of Council programs, services, facilities, events and projects for the community and are highly valued by Council. The purpose of this policy is:

- To ensure that volunteering remains a mutually beneficial activity
- To recognise the important contribution volunteers make to achieving Council and community goals
- To clarify the relationship between Council staff and volunteers
- To provide a safe and healthy workplace for volunteers
- To identify training requirements to ensure associated activities are undertaken in a safe manner
- To provide appropriate supervision to ensure activities are satisfactorily performed
- To ensure Council fulfils its duty of care to volunteers and those impacted by volunteering, including clients, staff and the community; and
- To promote a positive volunteering experience with Council.

Scope

This policy applies to all volunteers of Council and its associated auspiced bodies. Volunteers may be involved in all programs and activities of the organisation, and serve at all levels of skill and decision making. Volunteers may be requested to work in the Greater Hume **Council Shire**, or surrounding areas.

Definitions

Volunteers are defined as persons who undertake activities:

- without monetary reward
- of their own free will
- of benefit to Council and the local community
- that complement but do not replace the services provided by paid staff.

Policy Content

This volunteer policy acknowledges the importance of volunteering to a diverse, vibrant, cohesive and sustainable community. Furthermore, the aim of the policy is to formalise the commitment of Council to supporting:

Formal volunteering which is an activity that takes place in not for profit organisations or projects and is undertaken:

- to be of benefit to the community and the volunteer
- of the volunteer's own free will and without coercion;
- for no financial payment, and
- in designated volunteer positions only.

Council volunteers which include:

- Volunteers who are members of Council managed Reference Groups
- Volunteers who participate in Council managed projects and events
- Volunteers who are members of Committees of Management which operate Council facilities and venues

Volunteer Policy

- Volunteers who fundraise and/or participate in other activities associated with Council's facilities or services
- ~~Volunteers of Greater Hume Aged and Community Services programs which include but are not limited to Meals on Wheels, DVA mowing and other Community Care Supports Programs~~

Council volunteers do not include:

- People involved in Work for the Dole initiatives
- People/businesses providing goods and/or services for a fee.

Volunteer positions will be developed in response to an identified need and where it has been assessed that the need would be more appropriately met by a volunteer. To engage and retain volunteers the work needs to be meaningful, not contrived or designed to 'make work', nor should we involve volunteers inappropriately.

Volunteers should not be expected to undertake roles they have not agreed to do. Likewise, volunteers will be placed in activities and programs that match their skills, interests and experience.

Volunteers are not paid for their services, nor are they free labour. As with paid staff, in order for volunteers to effectively fulfil their duties and meet legislative requirements, they need access to information and appropriate resources – human, physical and financial. The resources need to be allocated in line with relevant Council policies and the National Standards for Involving Volunteers.

Greater Hume Council values diversity and welcomes volunteers from all culturally and linguistically diverse backgrounds, of aboriginal and Torres Strait Islander background and people of all abilities to apply to volunteer at Greater Hume Council.

Links to Policy

Complaints Handling Policy
Complaints Against Staff
Policy Grievance
Policy/Procedure
Employment Opportunity Policy and Management
Plan Smoke Free Environment Policy
Drug & Alcohol Policy
Work Health & Safety
Policy Risk Management
Policy Safe Driving Policy
Social Media Policy
Model Code of Conduct
Privacy Management Plan
Performance and Misconduct Policy
Criminal Record Check Policy
External Grant Applications for Management Committees

Links to Procedure

Volunteers Guidelines
Privacy Management Plan
External Grant Application Procedure for Management Committees

Links to Forms

[Volunteer Application Form](#)

References

Nil.

Volunteer Policy

Responsibility

Director Corporate and Community Services

Document Author

Manager Corporate Services

Relevant Legislation

Local Government Act 1993

Privacy Act (1988)

Disability Inclusion Act 2014

Disability Inclusion Regulation 2014

Associated Records

Greater Hume Shire Delivery Plan

Greater Hume Disability Inclusion Action Plan

Draft

Bereavement Leave Policy

Document Name	Document Version Number	Review Date
Bereavement Leave Policy	1.0.1	August 2018
Date Adopted	Minute Number	Status
17 August 2016	4457	Revised

Purpose

To govern the provisions of bereavement leave to all Council employees.

Scope

This Policy does not form part of any employee's contract of employment. The Policy is not intended to override the terms of any award, certified agreement or contract that applies to an employee.

This Policy reflects the provisions of, where relevant, the Industrial Relations Act 1996 (NSW), the Local Government (State) Award 2014 but does not override any more beneficial provision in an employee's contract of employment.

Definitions

Immediate Family –

- A spouse or a de facto partner of the employee
- A child of the employee
- A parent of the employee
- A sibling of the employee
- A grandchild of the employee
- A child of the spouse or de facto partner of the employee
- A parent of the spouse or de facto partner of the employee
- A sibling of the spouse or de facto partner of the employee
- A grandchild of the spouse or de facto partner of the employee
- A member of the employee's extended family living in the same domestic dwelling as the employee
-

Extended Family –

- A niece of the employee
- A nephew of the employee
- An uncle of the employee
- An aunt of the employee
- A grandparent of the employee
- A grandparent of the spouse or de facto partner of the employee
- A spouse or de facto partner of the employee's child (son in law or daughter in law)

Policy Content

Council provides Bereavement Leave in accordance with the Local Government (State) Award 2014.

Employees, other than casual employees, who are absent from duty because of the death of a person and provides satisfactory evidence to Council shall be entitled to:

- Up to four days paid bereavement leave upon the death of a member of the employee's immediate family, or
- Up to two days bereavement leave upon the death of a member of the employee's extended family.

Bereavement Leave Policy

Casual employees are entitled to be unavailable to attend work for these periods, however are not entitled to payment for the period of non attendance.

No Accumulation

As bereavement leave is an event based leave, it does not accrue and accordingly will not be paid out on termination of employment.

Notice Requirements

Employees must notify Council as soon as practicable of the intention to take leave. Council may require an employee to provide to the Council's satisfaction, proof of the death of a member of the employee's immediate family.

Applications For Leave

Any employee who requests bereavement leave of a type specified by this Policy should submit a Leave Application Form and comply with the relevant notice and documentation requirements outlined in this Policy. All documents should be given to the employee's Immediate Supervisor.

Links to Policy

Nil.

Links to Procedure

Nil.

Links to Forms

Personnel Leave Application Form

References

Local Government (State) Award 2014

Responsibility

Director Corporate & Community Services

Document Author

Manager Corporate Services

Relevant Legislation

Local Government (State) Award 2014
Industrial Relations Act 1996 (NSW)

Associated Records

Nil.

Children Services Governance and Management of the Service Policy

Document Name	Document Version Number	Review Date
Children Services Governance and Management of the Service Policy	Insert Version Number Here	Click Here to Enter Date
Date Adopted	Minute Number	Status
Click Here to Enter Date	Insert Minute Number Here	Select Status Here

Purpose

Greater Hume Children Services is managed by Greater Hume Council which ensures appropriate governance arrangements are in place in respect of financial management, legislative compliance, human resource management and policy development and adoption.

Scope

Staff and management, Educators, Relief Educators, parent/guardians and volunteers.

Definitions

Educators are fully licensed registered educators in accordance with with service policy and procedure

Relief Educators are fully licensed and registered relief educators in accordance with service policy and procedure

Policy Content

Greater Hume Children Services will ensure that:

- i. administrative systems are established and maintained to ensure the effective operation of the service.
- ii. records and information are stored appropriately to ensure confidentiality, are available from the service and are maintained in accordance with legislative requirements.
- iii. the regulatory authority is notified of any relevant changes to the operation of the service, of serious incidents and of any complaints which allege a breach of legislation.
- iv. processes are in place to ensure that all grievances and complaints are addressed, investigated fairly and documented in a timely manner.

service practices are based on effectively documented policies and procedures that are available at the service and reviewed regularly

Links to Policy

Nil

Links to Procedure

Payment of Fees Office procedure

Payment of Fees Educator Procedure

Incident Injury Trauma and Illness Office Procedure

Incident Injury Trauma and Illness Educator Procedure

Enrolment and Orientation Office Procedure

Excursions Procedure

Dealing with Medical Conditions Procedure

Child Safe Environment Educator Procedure

Child Safe Environment Office Procedure

Code of Conduct Procedure Including Determining the Responsible Person Present and Participation of Volunteers and Students Procedure

Nutrition Food and Beverages and Dietary Requirements Procedure

Dealing with Infectious Disease Procedure

Links to Forms

Nil

References

Australian Children's Education and Care Quality Authority (2011). Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011
Australian Children's Education and Care Quality Authority (2011). National Quality Standards
Australian Children's Education and Care Quality Authority (2011). Guide to the National Quality Framework
Australian Children's Education and Care Quality Authority (2011). Guide to the National Quality Standard
Firth, J, Kambouris N, & O'Grady O. (2003). Health and Safety Model Policies and Practices. (2nd ed.)
National Health and Medical Research Council. (2005). Staying Healthy in Childcare: Preventing Infectious Diseases in Child care (4th Ed.)

Responsibility

Team Leader Greater Hume Children Services

Document Author

Team Leader Greater Hume Children Services

Relevant Legislation

Education and Care Services National Regulation 2011 Regulation 168 (2) (i)
Education and Care Services National Law Act 2010
Local Government Act 1993

Disability Inclusion Act 2014

Disability Inclusion Regulation 2014.

Family Assistance Law encompassing the following legislation:

- [A New Tax System \(Family Assistance\) Act 1999](#)
- [A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#)
- [Child Care Subsidy Minister's Rules 2017](#) (Minister's Rules)
- [Child Care Subsidy Secretary's Rules 2017](#) (Secretary's Rules)
- Any other instruments (including regulations) made under the [A New Tax System \(Family Assistance\) Act 1999](#) and the [A New Tax System \(Family Assistance\) \(Administration\) Act 1999](#)
- Schedules 5 and 6 to the [A New Tax System \(Family Assistance and Related Measures\) Act 2000](#).

Greater Hume Children Services as an approved provider is familiar with and complies with the legislation and legislative instruments that form Family Assistance Law.

Associated Records

Nil