11.3 Legislative Compliance Policy

REPORT BY THE MANAGER GOVERNANCE
TO 17 JUNE 2020 ORDINARY MEETING
GOV400087,

RECOMMENDATION

That Council:

1. receive the report by the Manager Governance on the Legislative Compliance Policy; and

2. adopt the Legislative Compliance Policy

Executive summary

The lack of a Legislative Compliance Register and Framework was identified in the 2018/2019 Auditors management letter. Council’s Audit Risk & Improvement Committee (ARIC) have actioned this item monitoring management’s progress of addressing the Audit requirement. ARIC and the Executive recommend adoption of this Policy.

Disclosure of Interest

Nil

Detailed report

Legislative Compliance Policy, Register and Database

A draft policy has been endorsed by ARIC. Council’s Executive finalised the Policy and a Legislative Compliance Framework during May 2020 that consists of the Policy, a Legislative Compliance Register and Database.

Councils Governance department will implement the Policy. The implementation will include embedding the Legislative Compliance Register and Database under agreement with Local Government Legal http://www.lglegal.com.au/access/ across all departments. Primary responsibility for complying with this policy rests with Managers overseen by the Executive.

ARIC will monitor the implementation of the Legislative Compliance Framework.

Community Plan implications

<table>
<thead>
<tr>
<th>Theme</th>
<th>Good Governance</th>
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</thead>
<tbody>
<tr>
<td>Goal</td>
<td>An effective and efficient organisation</td>
</tr>
<tr>
<td>Strategy</td>
<td>Prudently manage risks association with all Council activities</td>
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</tbody>
</table>

Strategic implications

Council Strategies
Risk Management Plan

**Council Policies**
Not Applicable

**Legislation**
The Policy and Framework must address all Legislative requirements of Local Government in NSW.

**Financial implications**
Annual registration for the LG Legal Legislative Compliance database $3,750

**Associated Risks**
Councils Auditors identified Legislative Compliance as a risk for Council to manage. The Council must not only comply with the vast amount of law applicable to NSW Councils but also council must also be able to demonstrate such compliance. The Legislative Compliance Framework presented in this Policy address this risk.

TIM JOHNSTON  
MANAGER GOVERNANCE

SIMON JONES  
DIRECTOR COMMUNITY

3 June 2020


APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER
Objective

Council, in its role as a Local Government Authority in NSW, is committed to compliance with all statutory and common law requirements relating to its operations and governance. Council must maintain the highest standards of diligence in all areas of public accountability through its policies; in meeting its legal obligations; and in the maintenance of a compliance management system.

It is the objective of Mid-Western Regional Council and its staff to not only comply with legislative requirements but also clearly and routinely demonstrate such compliance.

If breaches are committed by Council, or people at Council, as a result of legislation not being complied with, legal action could be taken against Council, staff and Councillors. The reputational damage to Council could also be considerable.

Legislative requirements

- Local Government Act 1993
- Local Government General Regulation 2005

Related policies and plans


- A primary function of Council is to give lawful effect of both NSW government legislation and local policies. Public officials (council staff) are employed to assist the Council to do so. Council staff should therefore give effect to a lawful policy of the Council whether or not they personally agree with or approve of it.

Policy

Council is committed to the principles of effective compliance programs. These principles are outlined in the NZS/AS 3806:2006. It is noted that the International Standard ISO 19600:2015 supersedes the Australian Standard. At this time Council’s Audit Risk & Improvement Committee has resolved to initially work toward achievement of the Australian standard before the adoption of the International standard.
Council will apply appropriate resources and procedures to ensure that the following principles are integrated into Council’s legislative compliance.

Principles

COMMITMENT

1. Commitment by the Council and the Executive to achieve effective compliance across all areas of the organisation
2. The compliance policy is aligned to the organisation’s strategy and business objectives, and is endorsed by Council
3. Appropriate resources are allocated to develop, implement, maintain and improve the compliance program
4. The Council and the Audit Risk & Improvement Committee will endorse the objectives and strategy of the compliance program
5. The Executive will routinely assess Council’s compliance obligations
6. Managers will ensure that they keep up to date with changes in the Legislative Compliance Database, with the assistance of the Governance department

IMPLEMENTATION

7. Responsibility for compliance is clearly articulated and assigned
8. Behaviours that create and support compliance programs are encouraged, and behaviours that compromise compliance are not tolerated
9. Controls are in place to manage the identified compliance obligations and achieve desired behaviours

PERFORMANCE

10. Performance of the compliance program is monitored, measured and reported on
11. The organisation is able to demonstrate its compliance program through both documentation and practice

CONTINUOUS IMPROVEMENT

12. The compliance program is regularly reviewed and continually improved
Responsibilities

Councils Audit Risk & Improvement Committee (ARIC) will audit Council’s Legislative Compliance Framework and report to Council as required.

The General Manager shall have overall responsibility for Council’s legislative compliance framework.

The Executive should ensure that adequate training and instruction is given to staff to ensure that legal obligations for their responsibilities are identified and met. The Executive will receive reports of significant non-compliance that must be promptly addressed and the necessary steps taken to comply. Significant non-compliance will be reported to ARIC.

Managers must ensure that procedures and systems are established to support compliance with Council’s Legislative Compliance Policy. Procedures will cover all council activities and will be regularly updated as required.

Managers, through using Local Government Legal Legislative Compliance Database, have a responsibility to ensure that they remain abreast of legislation changes which affect their area of work to ensure that they and their staff are aware of their legislative obligations with the goal that compliance is achieved at all times.

All employees must immediately report through their Supervisors and Managers any areas of non-compliance identified.

Maintenance

Council will ensure adequate processes are in place to ensure that timely advice is received regarding changes to compliance obligations and good governance practices by:

- Maintaining the Local Government Legal Legislative Compliance Database
- continuing memberships with professional bodies (areas such as engineering, accountancy, planning, health and building).
- subscribing to relevant information services
- attending industry forums, conferences, workshops and seminars

Implementation and Review

Legislative compliance is primarily a management responsibility and therefore commitment must be demonstrated by all levels of management to ensure Council’s legal obligations within their area of responsibility are met.

To achieve Council’s compliance objective, Council has engaged with Local Government Legal for access to their Legislative Compliance Database (LCD). Access to the database will assist Managers to monitoring and review council’s legislative obligations and responsibilities. Managers will access the database and acknowledge their understanding of the legislative obligations of their role with Council.

Where necessary expert advice will be sought following Executive approval to guide management actions.
To support the achievement of the Legislative Compliance Policy objectives Managers will:

- Promote a culture of compliance and good governance;
- Uphold a culture of open disclosure of non-compliance without fear of reprisal;
- Document and review Council processes to ensure they comply with applicable laws and regulations;
- Attend training and be established as users of the LCD to enable understanding of compliance obligations and required management actions;
- Continue to monitor and report on compliance to identify breaches or system failures;
- Promptly address identified breaches or other non-compliances to mitigate council’s exposure to legal risk;
- Immediately report all major non-compliance events to the Executive.

Council’s level of compliance will be assessed by the Audit Risk & Improvement Committee and reported to Council.