



# Business Papers 2022

MID-WESTERN REGIONAL COUNCIL

**ORDINARY MEETING**  
WEDNESDAY 20 APRIL 2022

**SEPARATELY ATTACHED ATTACHMENTS**

*A prosperous and progressive  
community we proudly call home*



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# MODEL CODE OF MEETING PRACTICE

for Local Councils  
in NSW

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2021



**MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW**

2021

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# 1 Introduction

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

The provisions of the Model Meeting Code that are not mandatory are indicated in **red font**.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in **blue font**.

In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## 2 Meeting Principles



2.1 Council and committee meetings should be:

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<b>Transparent:</b>	Decisions are made in a way that is open and accountable.
<b>Informed:</b>	Decisions are made based on relevant, quality information.
<b>Inclusive:</b>	Decisions respect the diverse needs and interests of the local community.
<b>Principled:</b>	Decisions are informed by the principles prescribed under Chapter 3 of the Act.
<b>Trusted:</b>	The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
<b>Respectful:</b>	Councillors, staff and meeting attendees treat each other with respect.
<b>Effective:</b>	Meetings are well organised, effectively run and skilfully chaired.
<b>Orderly:</b>	Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

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## 3 Before the Meeting

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## Timing of ordinary council meetings

- 3.1 Ordinary meetings of the council will be held on the following occasions: **[council to specify the frequency, time, date and place of its ordinary meetings]**.
- 3.2 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

**Note: Councils must use either clause 3.1 or 3.2.**

**Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.**

**Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.**

**Note: Under section 400T of the Act, boards of joint organisations are required to meet at least four (4) times each year, each in a different quarter of the year.**

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## Extraordinary meetings

- 3.3 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note: Clause 3.3 reflects section 366 of the Act.**

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## Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note: Clause 3.4 reflects section 9(1) of the Act.**

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

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## Notice to councillors of ordinary council meetings

- 3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note: Clause 3.7 reflects section 367(1) of the Act.**

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note: Clause 3.8 reflects section 367(3) of the Act.**

## Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 3.9 reflects section 367(2) of the Act.**

## Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted **[council to specify notice period required]** business days before the meeting is to be held.
- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

- 3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:
- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
  - (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

## Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

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## Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when

the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:

- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
- (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

**Note: Clause 3.21 reflects section 9(2A) (a) of the Act.**

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

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## Statement of ethical obligations

- 3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

## Availability of the agenda and business papers to the public

3.24 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

**Note: Clause 3.24 reflects section 9(2) and (4) of the Act.**

3.25 Clause 3.24 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 3.25 reflects section 9(2A) (b) of the Act.**

3.26 For the purposes of clause 3.24, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 3.26 reflects section 9(3) of the Act.**

3.27 A copy of an agenda, or of an associated business paper made available under clause 3.24, may in addition be given or made available in electronic form.

**Note: Clause 3.27 reflects section 9(5) of the Act.**

## Agenda and business papers for extraordinary meetings

3.28 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

3.29 Despite clause 3.28, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

(a) a motion is passed to have the business considered at the meeting, and

(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.30 A motion moved under clause 3.29(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.31 Despite clauses 10.20-10.30, only the mover of a motion moved under clause 3.29(a) can speak to the motion before it is put.

3.32 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.29(b) on whether a matter is of great urgency.

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## Pre-meeting briefing sessions

- 3.33 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.34 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.35 Pre-meeting briefing sessions may be held by audio-visual link.
- 3.36 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.37 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.38 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## 4 Public Forums

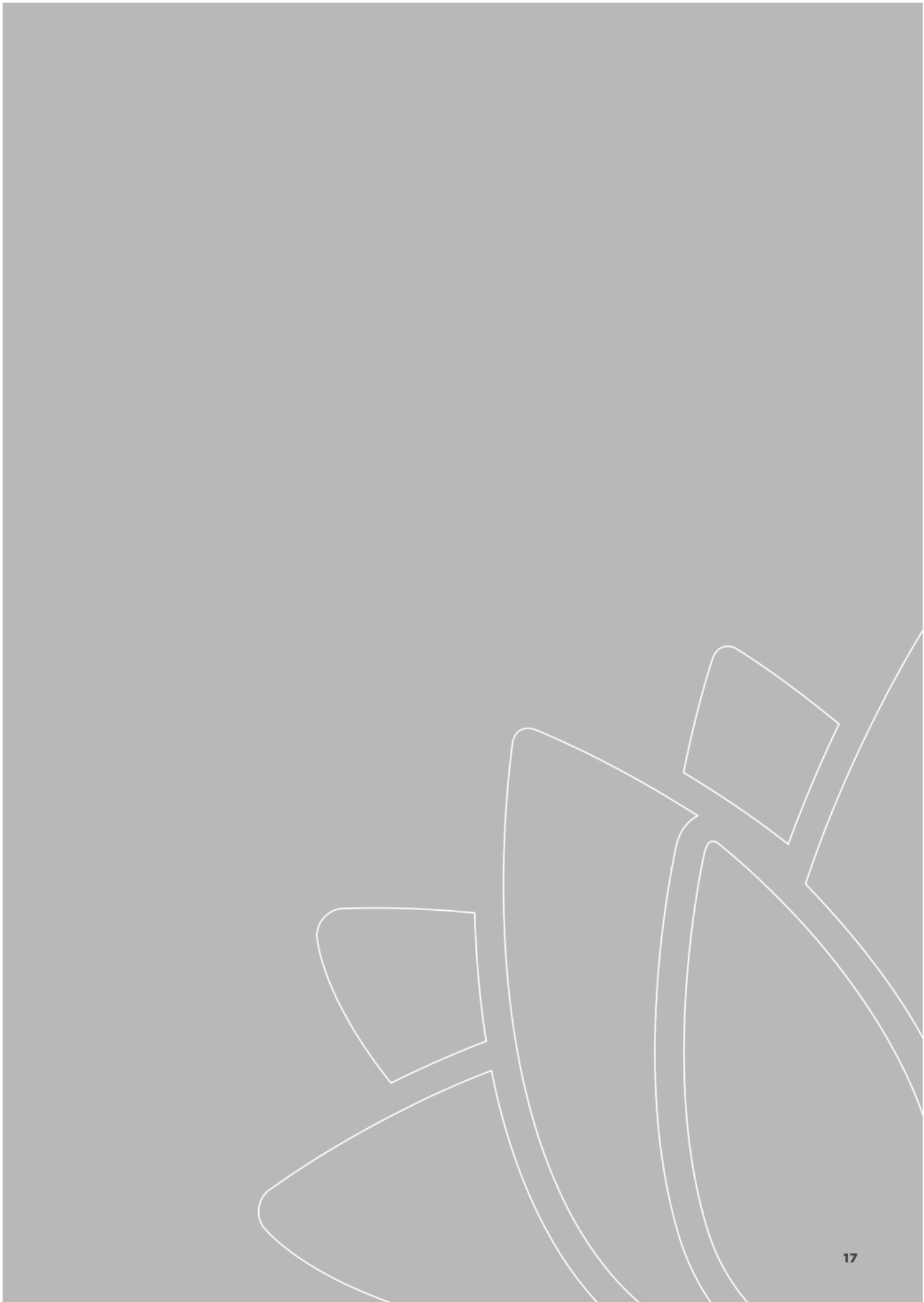


- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums may be held by audio-visual link.
- 4.3 Public forums are to be chaired by the mayor or their nominee.
- 4.4 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **[date and time to be specified by the council]** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.5 A person may apply to speak on no more than **[number to be specified by the council]** items of business on the agenda of the council meeting.
- 4.6 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.7 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.8 No more than **[number to be specified by the council]** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.10 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.11 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 4.12 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.13 Each speaker will be allowed **[number to be specified by the council]** minutes to address the council. This time is to be strictly enforced by the chairperson.

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- 4.14 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.15 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.16 Speakers are under no obligation to answer a question put under clause 4.15. Answers by the speaker, to each question are to be limited to **[number to be specified by the council]** minutes.
- 4.17 Speakers at public forums cannot ask questions of the council, councillors, or council staff.
- 4.18 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to **[number to be specified by the council]** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.19 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.20 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.21 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.20, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.22 Clause 4.21 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.23 Where a speaker engages in conduct of the type referred to in clause 4.20, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.24 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

**Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**



## 5 Coming Together

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## Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.
- 5.3 The board of the joint organisation may, if it thinks fit, transact any of its business at a meeting at which representatives (or some representatives) participate by telephone or other electronic means, but only if any representative who speaks on a matter before the meeting can be heard by the other representatives. For the purposes of a meeting held in accordance with this clause, the chairperson and each other voting representative on the board have the same voting rights as they have at an ordinary meeting of the board.

**Note: Clause 5.3 reflects section 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils must not adopt clause 5.3.**

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making

an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.7 reflects section 234(1)(d) of the Act.**

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

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## The quorum for a meeting

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 5.9 reflects section 368(1) of the Act.**

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5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.10 reflects section 368(2) of the Act.**

5.11 A meeting of the council must be adjourned if a quorum is not present:

- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
- (b) within half an hour after the time designated for the holding of the meeting, or
- (c) at any time during the meeting.

5.12 In either case, the meeting must be adjourned to a time, date, and place fixed:

- (a) by the chairperson, or
- (b) in the chairperson's absence, by the majority of the councillors present, or
- (c) failing that, by the general manager.

5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each

councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

## Meetings held by audio-visual link

5.16 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.

5.17 Where the mayor determines under clause 5.16 that a meeting is to be held by audio-visual link, the general manager must:

- (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
- (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and

- (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.
- 5.18 This code applies to a meeting held by audio-visual link under clause 5.16 in the same way it would if the meeting was held in person.
- Note: Where a council holds a meeting by audio-visual link under clause 5.16, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**
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- ## Attendance by councillors at meetings by audio-visual link
- 5.19 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.20 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.21 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.20.
- 5.22 The council must comply with the Health Privacy Principles prescribed under the *Health Records and Information Privacy Act 2002* when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.23 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.24 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
- (a) the meetings the resolution applies to, and
  - (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.25 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.26 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-

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visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.

- 5.27 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality, or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.28 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.
- 5.29 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 5.30 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

## Entitlement of the public to attend council meetings

- 5.31 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 5.31 reflects section 10(1) of the Act.**

- 5.32 Clause 5.31 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.33 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 5.33 reflects section 10(2) of the Act.**

**Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**



## Webcasting of meetings

- 5.34 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.
- 5.35 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:
- (a) the meeting is being recorded and made publicly available on the council's website, and
  - (b) persons attending the meeting should refrain from making any defamatory statements.
- 5.36 The recording of a meeting is to be made publicly available on the council's website:
- (a) at the same time as the meeting is taking place, or
  - (b) as soon as practicable after the meeting.
- 5.37 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.
- 5.38 Clauses 5.36 and 5.37 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.
- 5.39 Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

**Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.34–5.39. Joint organisations that choose not to webcast meetings may omit clauses 5.34–5.39.**

## Attendance of the general manager and other staff at meetings

- 5.40 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 5.40 reflects section 376(1) of the Act.**

- 5.41 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.41 reflects section 376(2) of the Act.**

- 5.42 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

**Note: Clause 5.42 reflects section 376(3) of the Act.**

- 5.43 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

- 5.44 The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the general manager.

## 6 The Chairperson

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## The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**

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## Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 6.4 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

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## Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## 7 Modes of Address

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

# 8 Order of Business for Ordinary Council Meetings

8.1 At a meeting of the council, the general order of business is as fixed by resolution of the council.

8.2 The general order of business for an ordinary meeting of the council shall be:  
**[Councils may adapt the following order of business to meet their needs]**

- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Apologies and applications for a leave of absence or attendance by audio-visual link by councillors
- 04 Confirmation of minutes
- 05 Disclosures of interests
- 06 Mayoral minute(s)
- 07 Reports of committees
- 08 Reports to council
- 09 Notices of motions/Questions with notice
- 10 Confidential matters
- 11 Conclusion of the meeting

**Note: Councils must use either clause 8.1 or 8.2.**

8.3 The order of business as fixed under [8.1/8.2] **[delete whichever is not applicable]** may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

8.4 Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

## 9 Consideration of Business at Council Meetings



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## Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that

it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

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## Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

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9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

**Staff reports**

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

**Reports of committees of council**

9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

**Questions**

9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.

9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

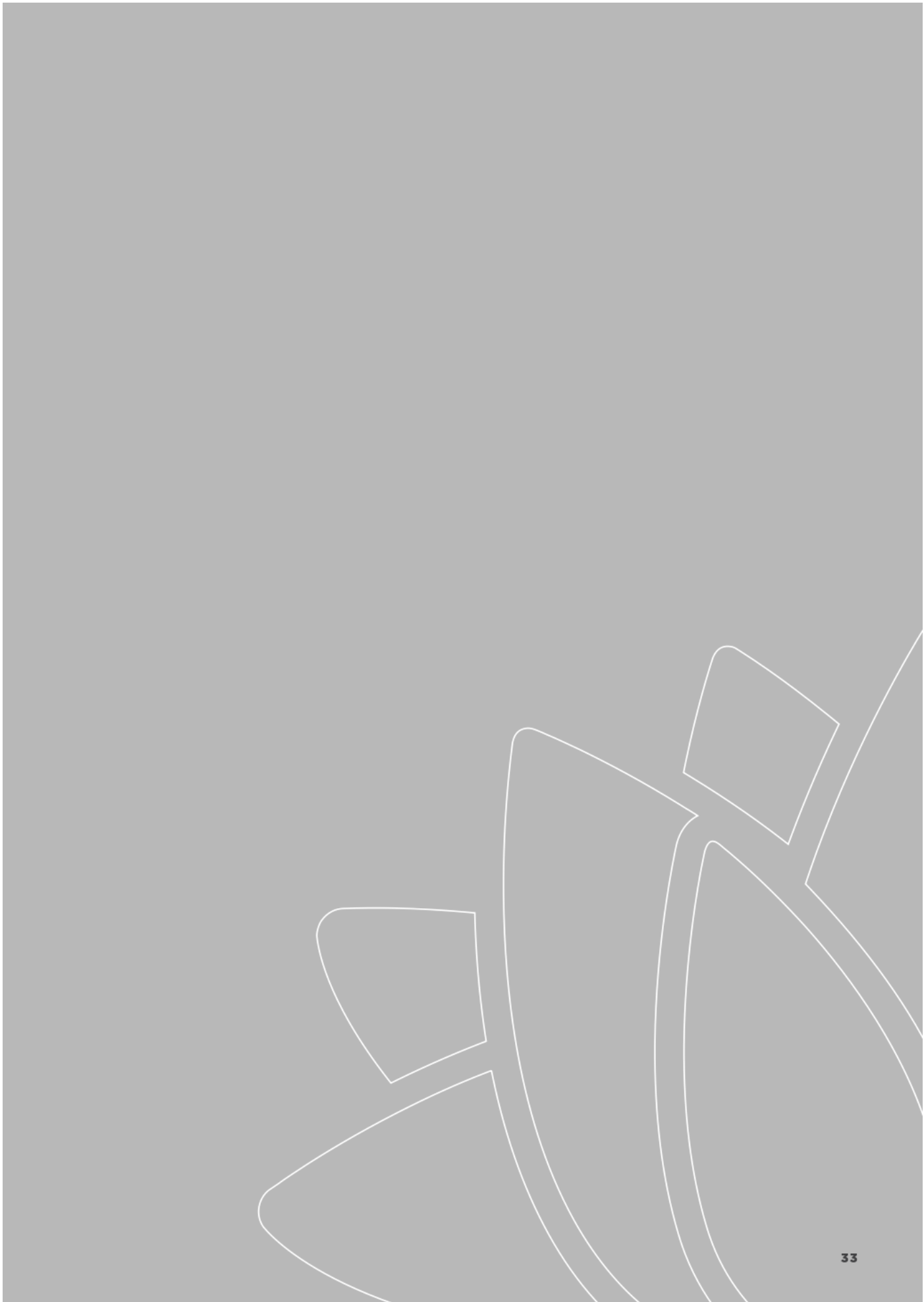
9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to

answer a question put to them through the general manager at the direction of the general manager.

9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.



## 10 Rules of Debate

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## Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

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## Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

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## Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.

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## Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

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## Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.

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- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

**Foreshadowed motions**

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.

- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

**Limitations on the number and duration of speeches**

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.

- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

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## Participation by non-voting representatives in joint organisation board meetings

10.31 Non-voting representatives of joint organisation boards may speak on but must not move, second or vote on any motion or an amendment to a motion.

**Note: Under section 400T(1)(c) of the Act, non-voting representatives of joint organisation boards may attend but are not entitled to vote at a meeting of the board.**

**Note: Joint organisations must adopt clause 10.31. Councils must not adopt clause 10.31.**

# 11 Voting



## Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**

**Note: Under section 400T(1) of the Act, voting representatives of joint organisation boards are entitled to one (1) vote each at meetings of the board.**

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

- 11.4 A motion at a meeting of the board of a joint organisation is taken to be lost in the event of an equality of votes.

**Note: Clause 11.4 reflects section 397E of the Regulation. Joint organisations must adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils must not adopt clause 11.4.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 11.4 must be adapted to reflect those requirements.**

## Voting at council meetings

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion

- 11.6 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

- 11.7 The decision of the chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

- 11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

**Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.**

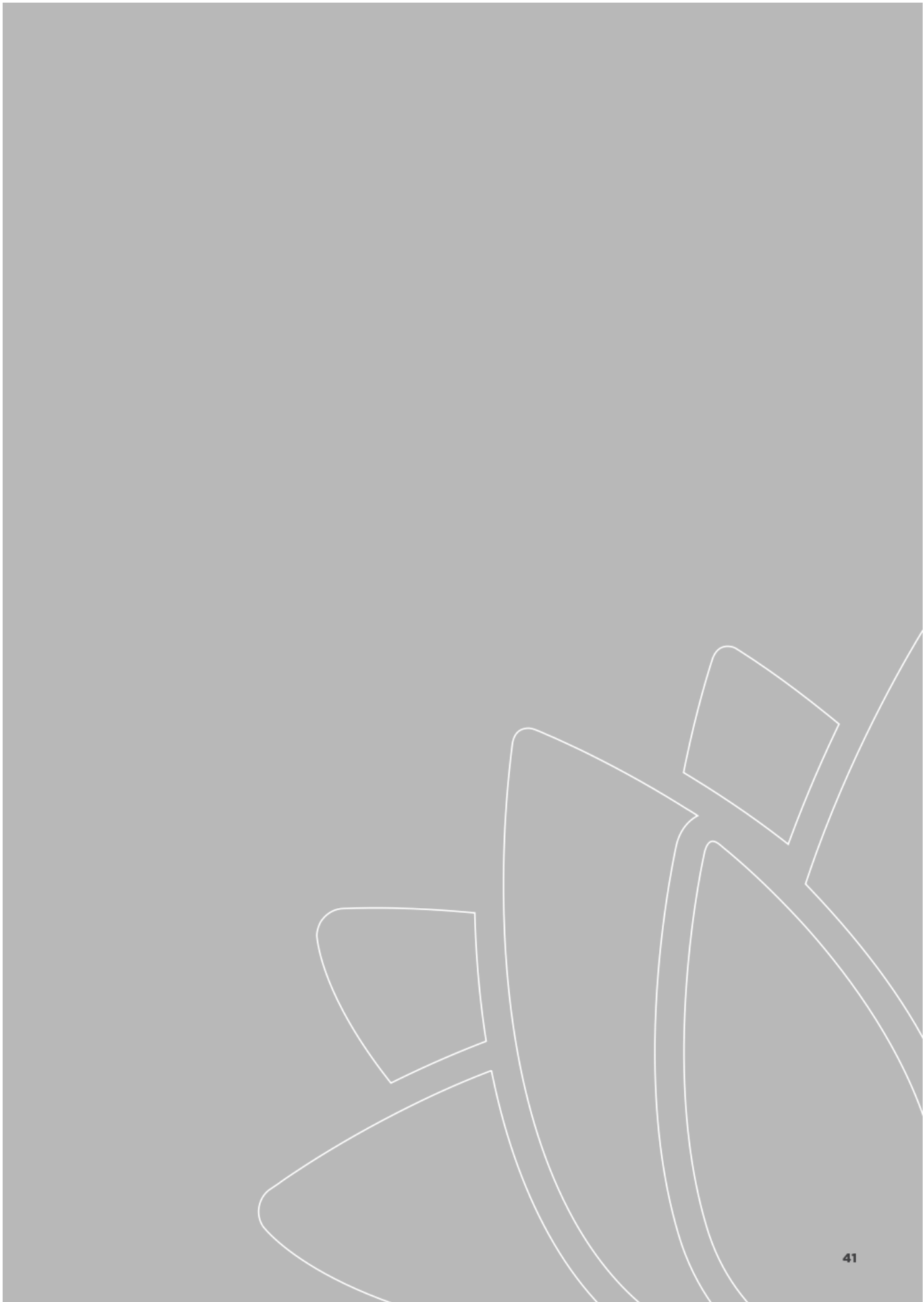
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## Voting on planning decisions

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

**Note: Clauses 11.12–11.15 reflect section 375A of the Act.**

**Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.**



## 12 Committee of the Whole

- 12.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 12.1 reflects section 373 of the Act.**

- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

# 13 Dealing with Items by Exception

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## 14 Closure of Council Meetings to the Public



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## Grounds on which meetings can be closed to the public

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

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,

- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

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

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

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

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## Matters to be considered when closing meetings to the public

14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

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- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

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## Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
- (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

**Note: Clause 14.8 reflects section 10C of the Act.**

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## Representations by members of the public

14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**Note: Clause 14.9 reflects section 10A(4) of the Act.**

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **[date and time to be specified by the council]** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than **[number to be specified by the council]** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the

persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.

- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **[number to be specified by the council]** speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed **[number to be specified by the council]** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

## Expulsion of non-councillors from meetings closed to the public

14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.

14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

## Obligations of councillors attending meetings by audio-visual link

14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

## Information to be disclosed in resolutions closing meetings to the public

14.21 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:

- (a) the relevant provision of section 10A(2) of the Act,
- (b) the matter that is to be discussed during the closed part of the meeting,
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note:** Clause 14.21 reflects section 10D of the Act.

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## **Resolutions passed at closed meetings to be made public**

- 14.22 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.23 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.
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## 15 Keeping Order at Meetings

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## Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

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## Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

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## Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

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## Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
  - (a) contravenes the Act, the Regulation or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or

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- (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

**Note: Clause 15.11 reflects section 182 of the Regulation.**

15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e), or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

**Note: Clause 15.12 reflects section 233 of the Regulation.**

## How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

## Expulsion from meetings

15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

**Note: Councils may use either clause 15.14 or clause 15.15.**

15.16 Clause [15.14/15.15] **[delete whichever is not applicable]**, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

**Note: Clause 15.17 reflects section 233(2) of the Regulation.**

15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.



- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

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## How disorder by councillors attending meetings by audio-visual link may be dealt with

- 15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.
- 15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

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## Use of mobile phones and the unauthorised recording of meetings

- 15.23 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.24 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.25 Without limiting clause 15.18, a contravention of clause 15.24 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.18. Any person who contravenes or attempts to contravene clause 15.24, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.26 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

# 16 Conflicts of Interest

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.
- 16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

## 17 Decisions of the Council

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## Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

**Note: Clause 17.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 17.1 must be adapted to reflect those requirements.**

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

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## Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

**Note: Clause 17.5 reflects section 372(3) of the Act.**

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 17.7 reflects section 372(5) of the Act.**

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 17.8 reflects section 372(7) of the Act.**

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than **[council to specify the period of time]** after the meeting at which the resolution was adopted.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 17.11 reflects section 372(6) of the Act.**

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17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

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## Recommitting resolutions to correct an error

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

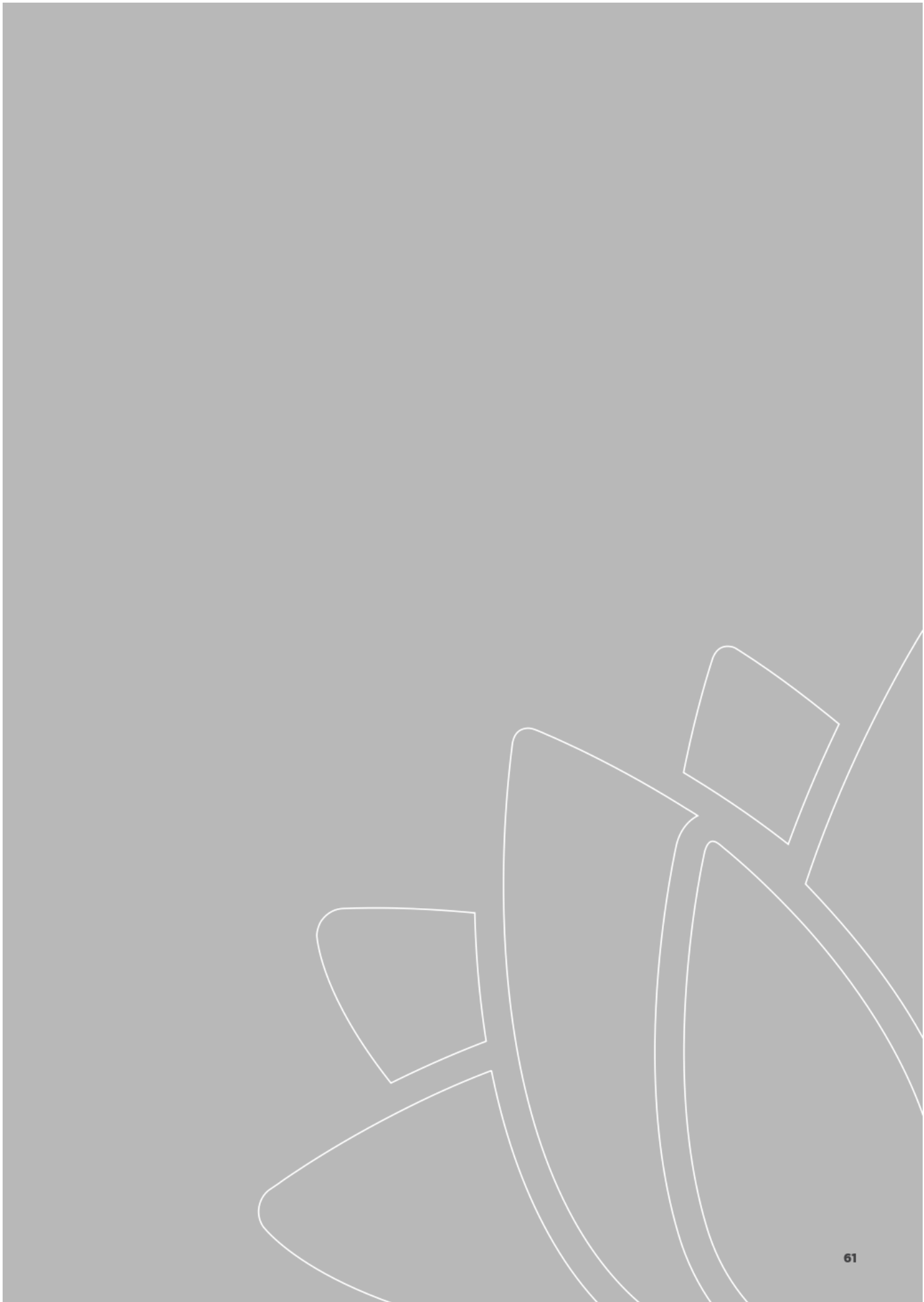
17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.



# 18 Time Limits on Council Meetings



- 18.1 Meetings of the council and committees of the council are to conclude no later than **[council to specify the time]**.
- 18.2 If the business of the meeting is unfinished at **[council to specify the time]**, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at **[council to specify the time]**, and the council does not resolve to extend the meeting, the chairperson must either:
  - (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
  - (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 After the Meeting

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## Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.
- Note: Clause 19.1 reflects section 375(1) of the Act.**
- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:
- (a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,
  - (b) details of each motion moved at a council meeting and of any amendments moved to it,
  - (c) the names of the mover and seconder of the motion or amendment,
  - (d) whether the motion or amendment was passed or lost, and
  - (e) such other matters specifically required under this code.
- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.
- Note: Clause 19.3 reflects section 375(2) of the Act.**
- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.
- Note: Clause 19.5 reflects section 375(2) of the Act.**
- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been

confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

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## Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 19.8 reflects section 11(1) of the Act.**

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 19.9 reflects section 11(2) of the Act.**

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 19.10 reflects section 11(3) of the Act.**

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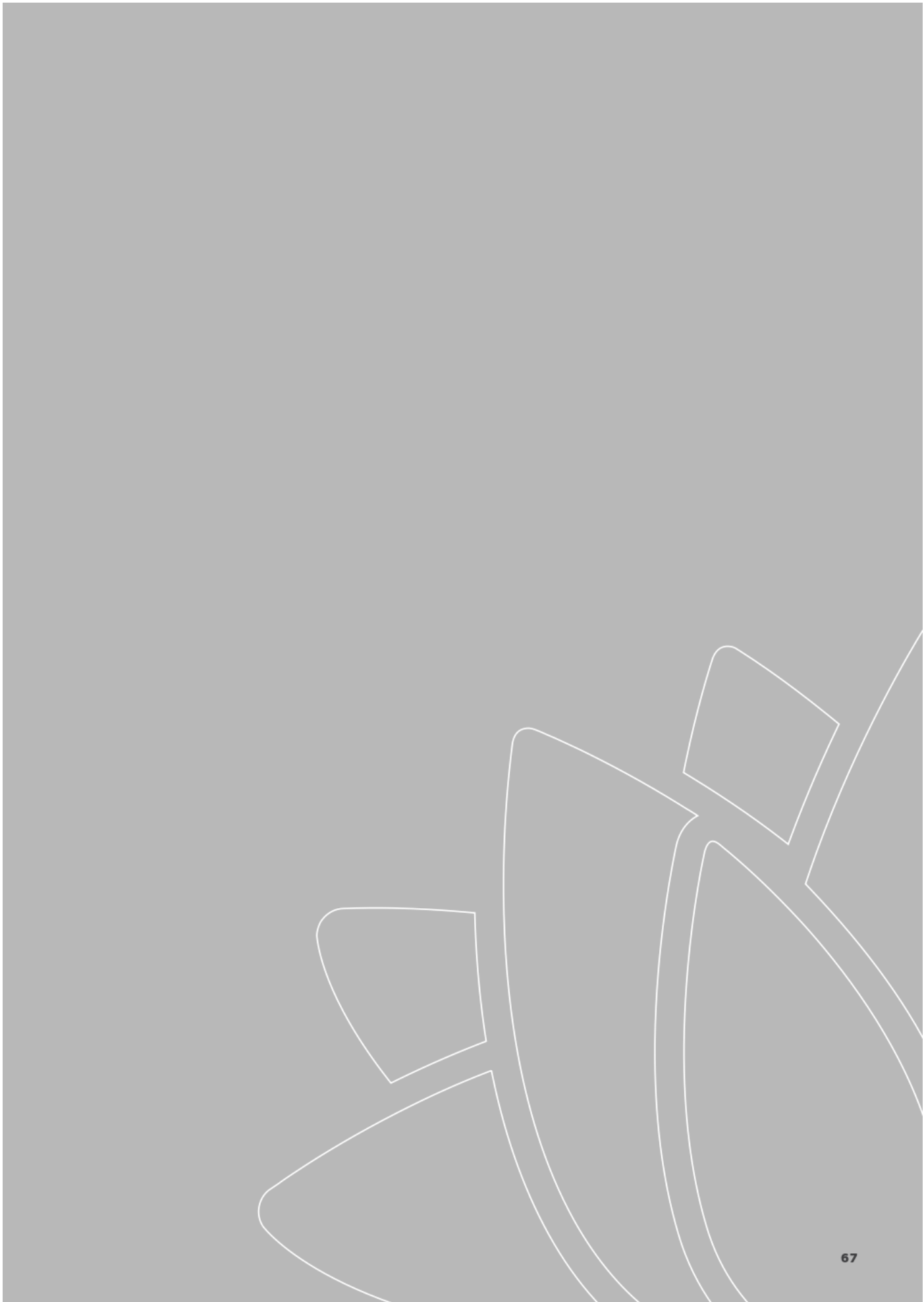
- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

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## Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 19.12 reflects section 335(b) of the Act.**



## 20 Council Committees

## Application of this Part

20.1 This Part only applies to committees of the council whose members are all councillors.

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## Council committees whose members are all councillors

20.2 The council may, by resolution, establish such committees as it considers necessary.

20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

20.4 The quorum for a meeting of a committee of the council is to be:

- (a) such number of members as the council decides, or
- (b) if the council has not decided a number – a majority of the members of the committee.

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## Functions of committees

20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

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## Notice of committee meetings

20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:

- (a) the time, date and place of the meeting, and
- (b) the business proposed to be considered at the meeting.

20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

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## Attendance at committee meetings

20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:

- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
- (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

---

## Non-members entitled to attend committee meetings

20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting.

## Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

## Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.
- Note: Clause 20.17 reflects section 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.**
- 20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).



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## Closure of committee meetings to the public

- 20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

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## Disorder in committee meetings

- 20.22 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

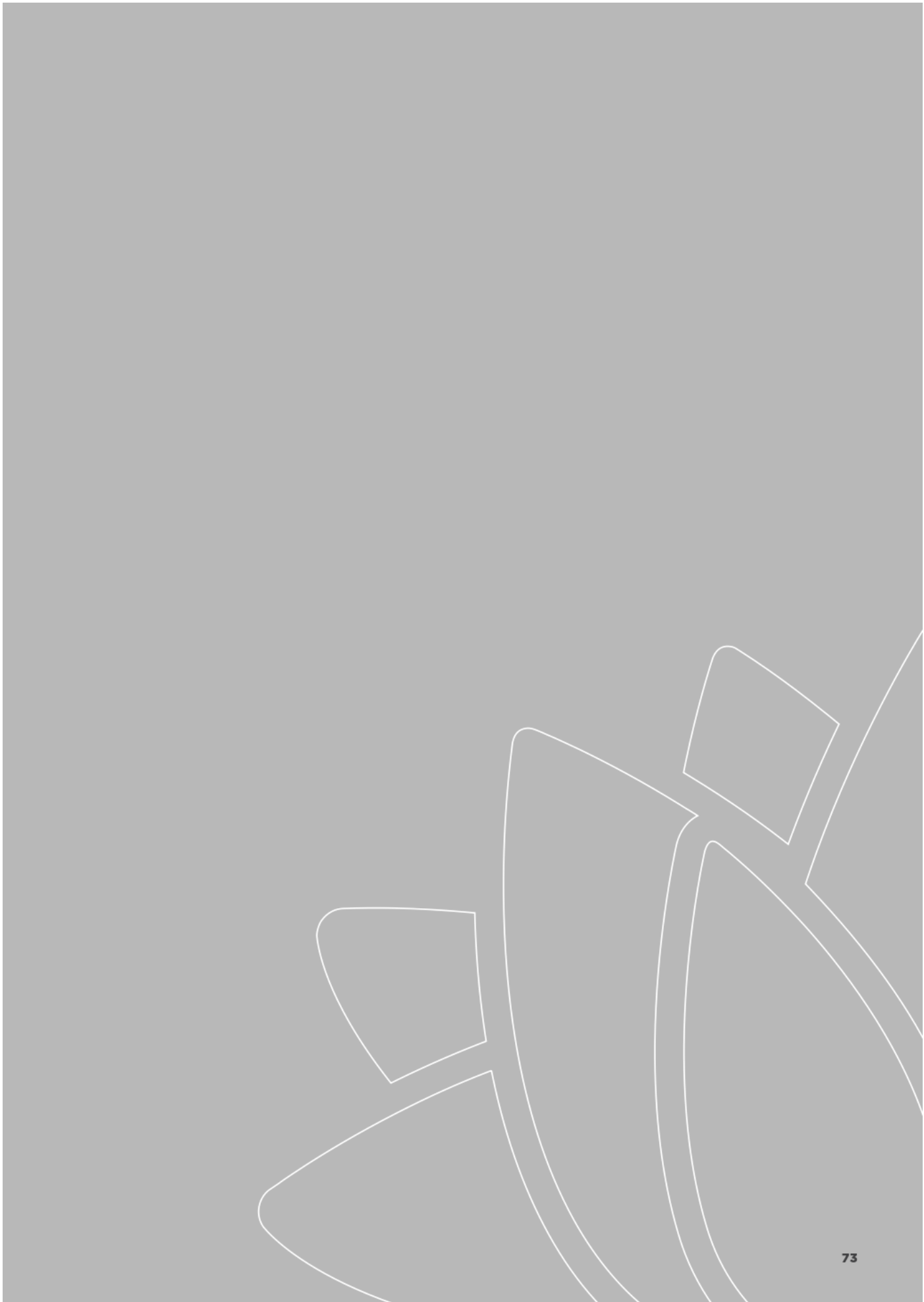
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## Minutes of council committee meetings

- 20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
  - (b) details of each motion moved at a meeting and of any amendments moved to it,
  - (c) the names of the mover and seconder of the motion or amendment,
  - (d) whether the motion or amendment was passed or lost, and
  - (e) such other matters specifically required under this code.
- 20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

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- 20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.



## 21 Irregularities

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

**Note: Clause 21.1 reflects section 374 of the Act.**

## 22 Definitions

<b>the Act</b>	means the <i>Local Government Act 1993</i>
<b>act of disorder</b>	means an act of disorder as defined in clause 15.11 of this code
<b>amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion
<b>audio recorder</b>	any device capable of recording speech
<b>audio-visual link</b>	means a facility that enables audio and visual communication between persons at different places
<b>business day</b>	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
<b>chairperson</b>	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and  in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
<b>this code</b>	means the council’s adopted code of meeting practice
<b>committee of the council</b>	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
<b>council official</b>	has the same meaning it has in the <i>Model Code of Conduct for Local Councils in NSW</i>
<b>day</b>	means calendar day
<b>division</b>	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
<b>foreshadowed amendment</b>	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
<b>foreshadowed motion</b>	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
<b>open voting</b>	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
<b>planning decision</b>	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act

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**Model Code of Meeting Practice for Local Councils in NSW**

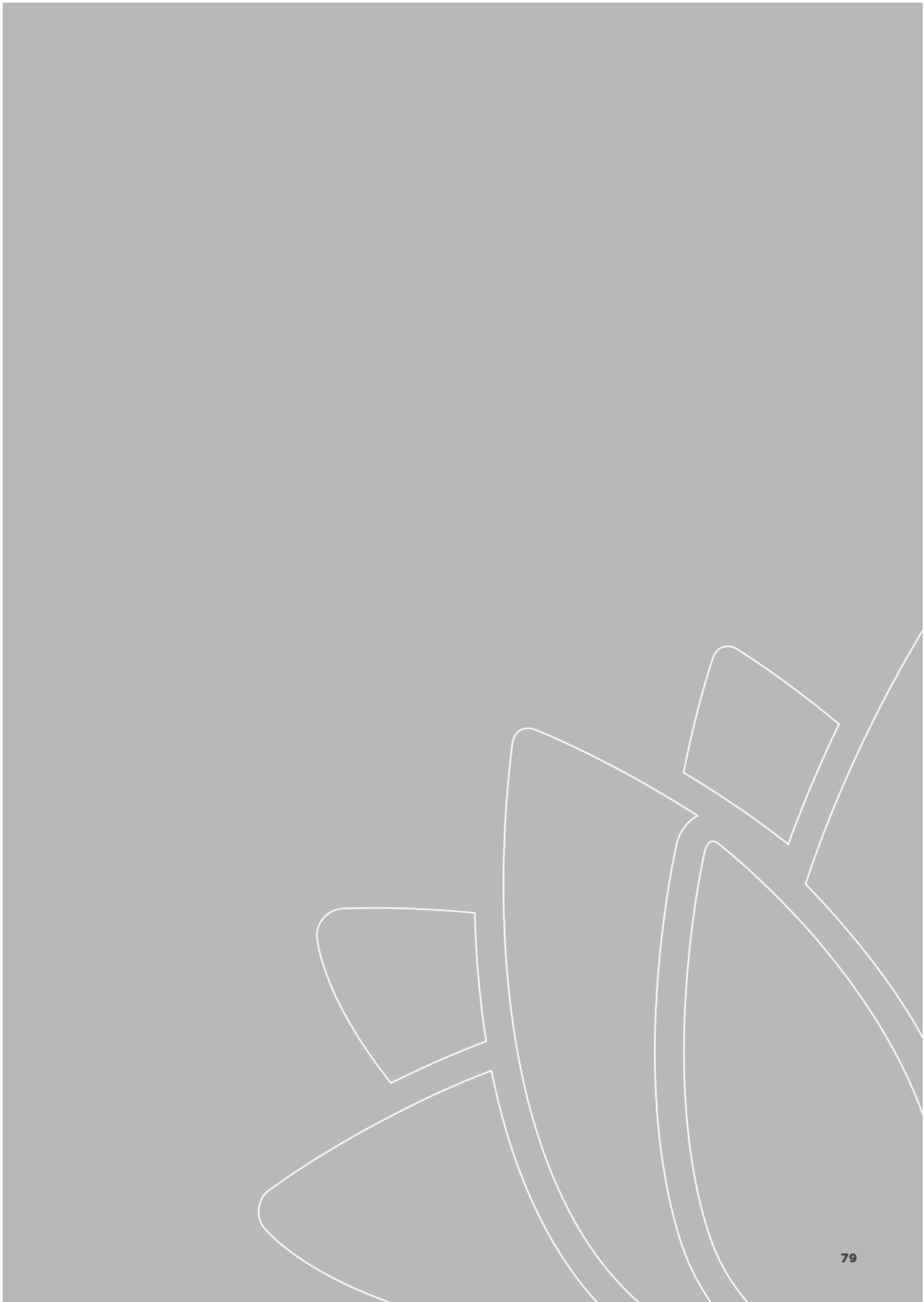
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<b>performance improvement order</b>	means an order issued under section 438A of the Act
<b>quorum</b>	means the minimum number of councillors or committee members necessary to conduct a meeting
<b>the Regulation</b>	means the <i>Local Government (General) Regulation 2021</i>
<b>webcast</b>	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
<b>year</b>	means the period beginning 1 July and ending the following 30 June

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# Mid-Western Regional Council

## **CODE OF MEETING PRACTICE**

**2021**

Based on the Model Code of Meeting  
Practice for Local Councils in NSW 2021

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## 1 INTRODUCTION

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

Mid-Western Regional Council adopted this Model Code of Meeting Practice on xxxxx Min No. xxxxx.

## 2 MEETING PRINCIPLES

2.1 Council and committee meetings should be:

*Transparent:* Decisions are made in a way that is open and accountable.

*Informed:* Decisions are made based on relevant, quality information.

*Inclusive:* Decisions respect the diverse needs and interests of the local community.

*Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.

*Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

*Respectful:* Councillors, staff and meeting attendees treat each other with respect.

*Effective:* Meetings are well organised, effectively run and skilfully chaired.

*Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

## 3 BEFORE THE MEETING

### Timing of ordinary council meetings

3.1 Ordinary meetings of the council will be held on the following occasions: The

third Wednesday of each month, excluding the month of January, at the Mid-Western Regional Council Chambers, 86 Market Street Mudgee 2850. The Public Forum will commence at 5.30pm. The Council Meeting opens at the conclusion of the Public Forum.

#### Extraordinary meetings

- 3.2 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

#### Notice to the public of council meetings

- 3.3 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.
- 3.4 For the purposes of clause 3.2, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 3.5 For the purposes of clause 3.2, notice of more than one (1) meeting may be given in the same notice.

#### Notice to councillors of ordinary council meetings

- 3.6 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.
- 3.7 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

#### Notice to councillors of extraordinary meetings

- 3.8 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

#### Giving notice of business to be considered at council meetings

- 3.9 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted 7 business days before the meeting is to be held.

- 3.10 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.11 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 3.12 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:
- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
  - (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

#### Questions with notice

- 3.13 A councillor may, by way of a notice submitted under clause 3.9, ask a question for response by the general manager about the performance or operations of the council.
- 3.14 A councillor is not permitted to ask a question with notice under clause 3.13 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.15 The general manager or their nominee may respond to a question with notice submitted under clause 3.13 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

#### Agenda and business papers for ordinary meetings

- 3.16 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.17 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and

- (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.9.
- 3.18 Nothing in clause 3.17 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.19 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.20 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
  - (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.
- 3.21 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

#### Statement of ethical obligations

- 3.22 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

#### Availability of the agenda and business papers to the public

- 3.23 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.



- 3.24 Clause 3.23 does not apply to the business papers for items of business that the general manager has identified under clause 3.20 as being likely to be considered when the meeting is closed to the public.
- 3.25 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.
- 3.26 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

#### Agenda and business papers for extraordinary meetings

- 3.27 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
  - (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.
- 3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

#### Pre-meeting briefing sessions

- 3.32 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.33 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.34 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.35 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.

- 3.36 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

#### 4 PUBLIC FORUMS

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the mayor or their nominee.
- 4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **4pm on the day** before the date on which the public forum is to be held, and must identify the topic that the person wishes to speak on. If the speaker's topic is on the meeting agenda the speaker must advise whether they wish to speak 'for' or 'against' the item.
- 4.4 A person may apply to speak on no more than **2 topics**.
- 4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.6 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.7 No more than **4 speakers** are to be permitted to speak on the same topic.
- 4.8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to

the council at the public forum, and to identify any equipment needs by 4pm the day before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.12 Each speaker will be allowed **5** minutes to address the council. The chairperson may provide an additional 1 minute. This time is to be strictly enforced by the chairperson.
- 4.13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question are to be limited to **2** minutes. The chairperson may provide an additional 1 minute.
- 4.16 Speakers at public forums cannot ask questions of the council, councillors, or council staff.
- 4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to **2** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.18 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.19 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

- 4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

## 5 COMING TOGETHER

### Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.
- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.
- 5.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.
- 5.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

### The quorum for a meeting

- 5.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.
- 5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.
- 5.10 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.11 In either case, the meeting must be adjourned to a time, date, and place fixed:
- (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the general manager.
- 5.12 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.
- 5.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 5.14 Where a meeting is cancelled under clause 5.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.2.

### Meetings held by audio-visual link

- 5.15 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of

councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.

#### Entitlement of the public to attend council meetings

- 5.16 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.
- 5.17 Clause 5.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.18 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

#### Webcasting of meetings

- 5.19 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.
- 5.20 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:
- (a) the meeting is being recorded and made publicly available on the council's website, and
  - (b) persons attending the meeting should refrain from making any defamatory statements.
- 5.21 The recording of a meeting is to be made publicly available on the council's website:
- (a) at the same time as the meeting is taking place, or
  - (b) as soon as practicable after the meeting.
- 5.22 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.
- 5.23 Clauses 5.21 and 5.22 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.
- 5.24 Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

### Attendance of the general manager and other staff at meetings

- 5.25 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.
- 5.26 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.
- 5.27 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.
- 5.28 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

## **6 THE CHAIRPERSON**

### The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.
- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

### Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 6.4 The election of a chairperson must be conducted:
  - (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.
- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
  - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

#### Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

### **7 MODES OF ADDRESS**

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

### **8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS**

- 8.1 At a meeting of the council, the general order of business is as fixed by resolution of the council.
- 8.2 The order of business as fixed under clause 8.1 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.
- 8.3 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.2 may speak to the motion before it is put.

### **9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS**

#### Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.9, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.6 in the case of an ordinary meeting or clause 3.8 in the case of an extraordinary meeting called in an emergency.



- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

#### Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the

council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

#### Staff reports

- 9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

#### Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

#### Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.9 and 3.13.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## **10 RULES OF DEBATE**

#### Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

#### Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.9 is to move the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.9 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

#### Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.

#### Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

#### Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.

- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

#### Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

#### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

## 11 VOTING

### Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.
- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.
- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

### Voting at council meetings

- 11.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- 11.5 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.
- 11.6 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

### Voting on planning decisions

- 11.7 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.8 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.9 Clauses 11.4–11.6 apply also to meetings that are closed to the public.

## **12 COMMITTEE OF THE WHOLE**

- 12.1 The council may resolve itself into a committee to consider any matter before the council.
- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.
- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

## **13 DEALING WITH ITEMS BY EXCEPTION**

- 13.1 The council or a committee of council may, at any time, resolve to adopt

multiple items of business on the agenda together by way of a single resolution.

- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## **14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC**

### Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
  - (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional

- privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) alleged contraventions of the council's code of conduct.
- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice.
- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.
- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.
- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed



to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
- (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

#### Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.
- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **4pm on the day** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than **four (4)** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **four (4)** speakers to make representations in such order as determined by the chairperson.

- 14.17 Each speaker will be allowed 5 minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Information to be disclosed in resolutions closing meetings to the public

- 14.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
  - (b) the matter that is to be discussed during the closed part of the meeting,
  - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Resolutions passed at closed meetings to be made public

- 14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.22 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.

## 15 KEEPING ORDER AT MEETINGS

### Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately as it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

### Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

### Acts of disorder

15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:

- (a) contravenes the Act, the Regulation or this code, or
- (b) assaults or threatens to assault another councillor or person present at the meeting, or
- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
- (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e), or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

### How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

### Expulsion from meetings

15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

15.15 Clause 15.14, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

- 15.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

#### Use of mobile phones and the unauthorised recording of meetings

- 15.20 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.21 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.22 Without limiting clause 15.17, a contravention of clause 15.21 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.17. Any person who contravenes or attempts to contravene clause 15.21, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.23 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16 CONFLICTS OF INTEREST**

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

## 17 DECISIONS OF THE COUNCIL

### Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.
- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

### Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.9.
- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.9.
- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.
- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.
- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.
- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.10 with the consent of all signatories to the notice of motion.
- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than **one (1) week** after the meeting at which the resolution was adopted.
- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.
- 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

#### Recommitting resolutions to correct an error

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

### **18 TIME LIMITS ON COUNCIL MEETINGS**

18.1 Meetings of the council and committees of the council are to conclude no later than **10pm**.

18.2 If the business of the meeting is unfinished at 10pm, the council or the committee may, by resolution, extend the time of the meeting.

18.3 If the business of the meeting is unfinished at 10pm, and the council does not resolve to extend the meeting, the chairperson must either:

- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
  - (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 AFTER THE MEETING

### Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.
- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:
  - (a) details of each motion moved at a council meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.
- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.
- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.



Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.
- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.
- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**20 COUNCIL COMMITTEES**

Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
  - (b) if the council has not decided a number – a majority of the members of the committee.

Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.
- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

#### Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

#### Non-members entitled to attend committee meetings

- 20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

#### Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of

the committee.

- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

#### Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

#### Closure of committee meetings to the public

- 20.18 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.19 during a part of the meeting that is webcast.

#### Disorder in committee meetings

- 20.21 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

#### Minutes of council committee meetings

- 20.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

- (a) details of each motion moved at a meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 20.23 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.24 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.25 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.26 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.27 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.28 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## **21 IRREGULARITIES**

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

## 22 DEFINITIONS

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
audio-visual link	means a facility that enables audio and visual communication between persons at different places
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including

	the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2021</i>
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

**Planning Proposal**  
**Lot 31 DP 158548**  
**53 Pitts Lane, Putta Bucca**



Navigate Planning

17 January 2022

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## Introduction

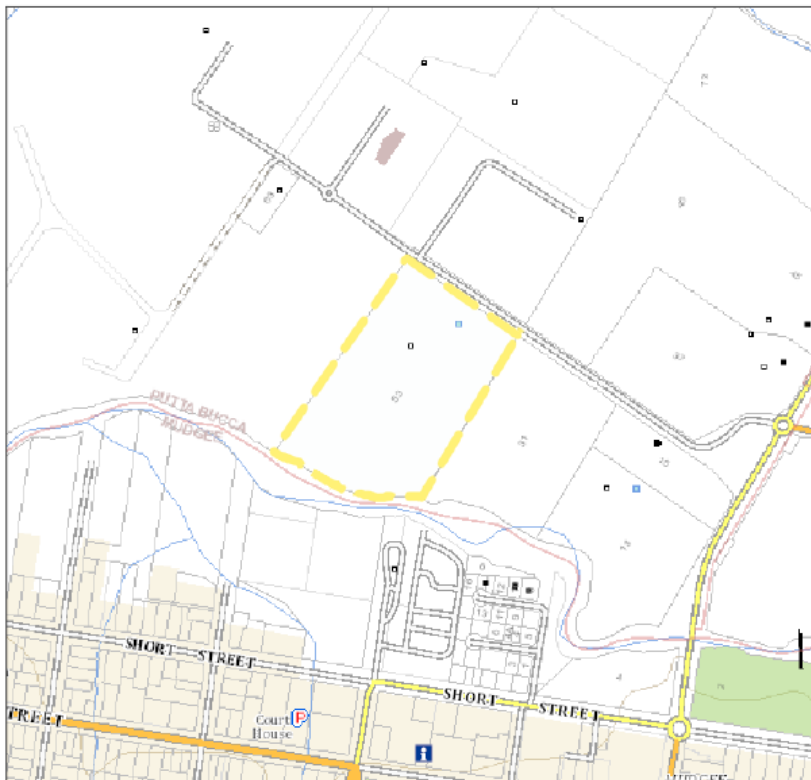
Mid-Western Council is progressively developing the Glen Willow Regional Sports Complex on land at Pitts Lane, Putta Bucca, across the Cudgegong River from the Mudgee town centre. The sports complex hosts a wide number of local and regional sporting events and provides facilities for many different sports and codes.

To further the sports and recreational opportunities at Glen Willow, the Council has recently purchased land adjoining the existing sports complex. The subject land is intended to be used for a mix of recreational uses, including:

- A BMX Pump Track
- A Bootcamp Fitness Zone
- Fitness Equipment
- Playground

The existing building on the site, previously used as a dwelling is proposed to be retained and used as a storage and maintenance depot for the whole of the Glen Willow Regional Sports Complex.

The subject site is Lot 31 DP 158548, as shown in the map below.



An aerial photograph of the site showing its relationship with Glen Willow is provided below, with the subject land outlined in red.



## Part 1 Objectives and intended outcomes

### Objective

To amend the Mid-Western Regional Local Environmental Plan 2012 to provide for the development of the subject site at 53 Pitts Lane, Putta Bucca in association with the adjoining Glen Willow Regional Sports Complex.

### Intended Outcomes

To facilitate the development of recreational facilities in association with the Glen Willow Regional Sports Complex.

To contribute to the growth of sport and recreation in the Mid-Western Region.

## Part 2 Explanation of provisions

This planning proposal seeks to achieve the objective identified in Part 1 through the rezoning of the land under the Mid-Western Regional Local Environmental Plan 2012 and the making of a consequential amendment to the Lot Size Map.

The following table outlines the proposed changes to the LEP.

Item	Current	Proposed
Land Zoning Map	RU4 Primary Production Small Lots	RE1 Public Recreation
Lot Size Map	20ha and 400ha	No Minimum Lot Size

Note: The 400ha minimum lot size is shown as a small strip along the southern boundary of the site and is likely to be an anomaly resulting from a misalignment between the cadastre and zoning maps.

Mapping of the proposed amendments are included in Part 4.

## Part 3 Justification

### SECTION A NEED FOR A PLANNING PROPOSAL

**QUESTION 1** *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The proposed development of recreational facilities on the subject land is not a development specifically identified in any strategic study or report. However, it will support the objectives of the following plans and strategies:

- Glen Willow Master Plan
- Recreation Strategy 2013
- Community Strategic Plan
- Local Strategic Planning Statement
- Mid-Western Regional Comprehensive Land Use Strategy

Discussion on the above plans and strategies is included under Section B, Question 4, below.

**QUESTION 2** *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

It is considered that rezoning the land to RE1 is the best means of achieving the intended outcome.

Rezoning to RE1 is considered appropriate as this ensures all of the Glen Willow precinct has the one consistent zoning and this zone facilitates a range of public recreation uses that could be accommodated on the land.


The planning proposal also seeks to remove the current 20ha and 400ha minimum lot sizes from the subject land, consistent with the approach for the remainder of the Glen Willow site. It is proposed to consolidate the subject lot with the lots that make up the remainder of the Glen Willow site. Therefore, the removal of the 20ha and 400ha minimum lot sizes for the subject lot will ensure there is no split minimum lot size over the consolidated site.

The removal of the 20ha and 400ha minimum lot size is further justified by the proposed rezoning to RE1 Public Recreation, which removes the agricultural and dwelling potential of the land. The primary objectives of minimum lot sizes in rural zones relate to maintaining larger lot sizes for productive agricultural activities and minimising the density of dwellings. These objectives are not applicable to the RE1 zone and therefore, the 20ha and 400ha minimum lot sizes are not required to be retained.

**SECTION B STRATEGIC PLANNING FRAMEWORK****QUESTION 3** *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?***Central West and Orana Regional Plan 2036**

The planning proposal is consistent with all relevant directions of the Central West and Orana Regional Plan as outlined in the table below.

<b>Direction</b>	<b>Relevance and Consistency</b>
<b>Direction 1: Protect the region's diverse and productive agricultural land</b>	The subject land is currently zoned RU4 Primary Production Small Lots, therefore these directions are relevant to the planning proposal.
<b>Direction 2: Grow the agribusiness sector and supply chains</b>	Each of these directions contain actions to protect important agricultural lands and minimise land use conflicts.
<b>Direction 12: Plan for greater land use compatibility</b>	The planning proposal seeks to rezone the land from RU4 to RE1 Public Recreation. The subject land is identified on the draft State Significant Agricultural Land map currently on public exhibition, an extract of which is provided below (with the subject land identified by the red star).


	 <p>Notwithstanding the inclusion of the land on the draft map, the land is not considered to be important agricultural land given its relatively small size, its public ownership and the recent construction of a road through the site. The adjoining land to the east is also not considered to be important agricultural land, again due to its small size and as it adjoins land used as a retail plant nursery.</p> <p>It is considered that the proposed rezoning of the land from RU4 Primary Production Small Lots to RE1 Public Recreation and the development of recreation facilities will not result in the loss of important agricultural land or cause any land use conflicts with any important agricultural land around Mudgee.</p>
<p><b>Direction 13: Protect and manage environmental assets</b></p>	<p>The key action is to <i>protect high environmental value assets through local environmental plans.</i></p> <p>The subject land does not contain any mapped high value vegetation but adjoins high value vegetation along the Cudgegong River, as shown on the Sensitive Biodiversity Map in the Mid-Western Regional LEP 2012. Rezoning of the land to RE1 Public Recreation will facilitate the protection of these environmental assets through the application of the zone objectives, including to <i>protect and enhance the natural environment for recreational purposes.</i></p> <p>Future development of recreation facilities will be undertaken in a manner that ensures the protection of the adjoining high value environments.</p>
<p><b>Direction 14: Manage and conserve water resources for the environment</b></p>	<p>The key action is to <i>locate, design, construct and manage new development to minimise impacts on water catchments, including downstream areas and groundwater sources.</i></p> <p>The planning proposal will facilitate the development of recreation facilities that will be developed in a manner that ensures no detrimental impact from stormwater on the adjoining watercourses or groundwater.</p>

<p><b>Direction 15: Increase resilience to natural hazards and climate change</b></p>	<p>The key action is to <i>locate developments, including new urban release areas, away from areas of known high biodiversity value; areas with high risk of bushfire or flooding; contaminated land; and designated waterways.</i></p> <p>The planning proposal will facilitate the development recreation facilities in a location that avoids areas of high biodiversity value along watercourses, is not bushfire prone and is not known or likely to be contaminated land.</p> <p>The subject land is within the 1% AEP flood level. The proposed development of recreation facilities is a compatible activity on flood prone land and the proposed developments will have no significant impact on flood levels.</p>
<p><b>Direction 16: Respect and protect Aboriginal heritage assets</b></p>	<p>The key action is to <i>protect, manage and respect Aboriginal objects and places in accordance with legislative requirements.</i></p> <p>An Aboriginal Cultural Heritage Assessment was undertaken for the whole of the Glen Willow site in 2009. No items were found through the assessment process. While the subject land was not part of Glen Willow at the time of the assessment, the land is very similar in nature and the results of the assessment are highly likely to be replicated for the subject land.</p> <p>It is considered that the planning proposal will have no detrimental impact on Aboriginal cultural heritage.</p>
<p><b>Local Government Narrative</b></p>	<p>The Mid-Western Region's Local Government Narrative in the Regional Plan includes the following priority:</p> <p><i>Support the provision and continued development of major regional sports, recreation and cultural facilities.</i></p> <p>The planning proposal will facilitate continued growth of the Glen Willow Regional Sports Complex.</p>

**Draft Central West and Orana Regional Plan 2041**

The planning proposal is consistent with all relevant objectives of the exhibited draft Central West and Orana Regional Plan as outlined in the table below.

Objectives	Relevance and Consistency
<p><b>Objective 1: Identify, protect and connect important environmental assets</b></p>	<p>The subject land does not contain any mapped high value vegetation but adjoins high value vegetation along the Cudgegong River, as shown on the Sensitive Biodiversity Map in the Mid-Western Regional LEP 2012. Rezoning of the land to RE1 Public Recreation will facilitate the protection of these environmental assets through the application of the zone objectives, including <i>to protect and enhance the natural environment for recreational purposes</i>.</p> <p>Future development of recreation facilities will be undertaken in a manner that ensures the protection of the adjoining high value environments.</p>
<p><b>Objective 2: Support connected and healthy communities</b></p>	<p>Rezoning the land to RE1 Public Recreation and the development of recreation facilities on the subject land will further the aim of boosting participation in sport and healthy lifestyles at a local level. The proposal involves extensions of the walking and cycling track along the Cudgegong River, furthering the aim of the Draft Plan to activate riverfronts.</p>
<p><b>Objective 3: Plan for resilient places and communities</b></p>	<p>The planning proposal will facilitate the development of recreation facilities in a location that avoids areas of high biodiversity value along watercourses, is not bushfire prone and is not known or likely to be contaminated land.</p> <p>The subject land is within the 1% AEP flood level. The proposed development of recreation facilities is a compatible activity on flood prone land and the proposed developments will have no significant impact on flood levels.</p>
<p><b>Objective 5: Ensure site selection and design embraces and respects the region’s landscapes, character and cultural heritage</b></p>	<p>Rezoning of the land to RE1 Public Recreation will have no negative impacts on the local landscape, character and cultural heritage.</p> <p>An Aboriginal Cultural Heritage Assessment was undertaken for the whole of the Glen Willow site in 2009. No items were found through the assessment process. While the subject land was not part of Glen Willow at the time of the assessment, the land is very similar in nature and the results of the assessment are highly likely to be replicated for the subject land.</p> <p>It is considered that the planning proposal will have no detrimental impact on Aboriginal cultural heritage.</p>
<p><b>Objective 13: Protect agricultural production values and promote agriculture innovation, sustainability and value-add opportunities</b></p>	<p>This objective refers to the existing Biophysical Strategic Agricultural Land map and the development of Important Agricultural Land (IAL) mapping. The subject land is identified on the Biophysical Strategic Agricultural Land map, as contained in State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, an extract of which is provided below (with the subject land identified by the red star). The whole of the Glen Willow Regional Sports Complex is also identified on this map.</p>

	 <p>Notwithstanding the inclusion of the land on the Biophysical Strategic Agricultural Land map, the land is not considered to be important agricultural land given its relatively small size, its public ownership and the recent construction of a road through the site. The adjoining land to the east is also not considered to be important agricultural land, again due to the small size and as it adjoins land used as a retail plant nursery.</p> <p>It is considered that the proposed rezoning of the land from RU4 Primary Production Small Lots to RE1 Public Recreation and the development of recreation facilities will not result in the loss of important agricultural land or cause any land use conflicts with any important agricultural land around Mudgee.</p>
<p><b>OBJECTIVE 14:</b> <b>Protect and leverage the existing and future road, rail and air transport networks and infrastructure</b></p>	<p>This objective includes a strategy to limit the encroachment of incompatible development to airports and aerodromes. The planning proposal relates to land in the vicinity of the Mudgee Airport. The subject land is partly within the landing or take-off surface limitation areas and the obstacle surface limitation height is between 500 and 510m AHD.</p> <p>The subject land is within the floodplain of the Cudgegong River and has ground levels between 447m and 448m AHD. The proposed recreation facilities will be low in height and not exceed the obstacle surface limit, thereby having no impact on the operation of the airport.</p>
<p><b>Objective 22:</b> <b>Protect Australia’s first Dark Sky Park</b></p>	<p>The <i>Environmental Planning and Assessment Regulation 2000</i> provides that the Dark Sky Planning Guidelines apply to land in the local government areas of Coonamble, Dubbo, Gilgandra and Warrumbungle and to certain development within 200km of the Siding Springs Observatory (being development of a class or description included in Schedule 4A to the Act, State significant development or designated development). The subject land is located approximately 150km from the observatory but is not of a class or description to which the Dark Sky Planning Guidelines apply.</p> <p>Notwithstanding, the proposed development can be designed to meet the requirements of the guidelines for minimising lighting and avoid upward light spill.</p>



<p><b>Local Government Priorities</b></p>	<p>Mid-Western Council's priorities for the LGA include major recreation, cultural and regional sports facilities, including the Glen Willow Regional Sports Complex.</p> <p>The planning proposal will facilitate continued growth of the Glen Willow Regional Sports Complex.</p>
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**QUESTION 4** *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

The planning proposal is consistent with and furthers the objectives of the following local strategies and plans.

**Glen Willow Master Plan**

The Glen Willow Master Plan, adopted by Council in 2016 states that *the goal is to encourage more participation in sport and to establish a significant green space that is located conveniently close to the majority of residents in the region.*

The development of recreation facilities on the subject land will further the aim of boosting participation in sport and healthy lifestyles at a local level. This planning proposal furthers the Council's local and regional sport and recreation objectives.

An extract of the current Glen Willow Master Plan incorporating the subject land is shown below.



### **Recreation Strategy 2013**

Mid-Western Regional Council adopted a Recreation Strategy on 25 July, 2013. The Strategy contains a number of recommendations that are supported by this planning proposal, including the following:

*That Council, through organised sporting groups, the Sports Council's and Mudgee Regional Tourism Inc, investigate opportunities for the promotion of the region's sporting facilities for sports related tourism.*

*That Council focus on the maintenance and embellishment of the existing infrastructure and delivery of Stages 2 and 3 of the Glen Willow facility in conjunction with rationalisation of duplicated facilities.*

While the strategy did not specifically envisage recreation facilities on the subject land, the proposal supports the above recommendations, specifically through the embellishment of facilities at Glen Willow in a manner that promotes local sports participation, healthy lifestyles and sports related tourism.

### **Community Strategic Plan**

The Mid-Western Regional Community Strategic Plan includes the following strategy:

*Strategy 1.3 - Support networks, program and facilities which promote health and wellbeing and encourage healthy lifestyles.*

The provision of new recreation facilities at the subject land which directly adjoins Glen Willow and is already physically connected by existing and new roads will boost participation in sport and physical activity at a local level. Greater participation in local sport will further the strategy of promoting healthy lifestyles and both personal and community wellbeing.

### **Local Strategic Planning Statement**

The Mid-Western Regional Local Strategic Planning Statement includes the following planning priority:

*Planning Priority 4: Provide infrastructure and services to cater for the current and future needs of our community.*

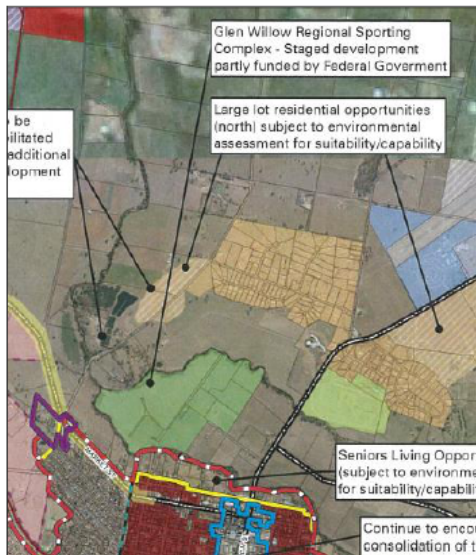
The rationale for this planning priority includes the following statement:

*Council's Recreation Strategy provides direction on the planning and development of recreational opportunities and facilities. As urban release areas are developed, the strategy will be reviewed to ensure adequate additional open space and recreational areas are provided.*

The Glen Willow Sports Complex is the primary regional sporting complex in the Mid-Western Region. It has already been successful in attracting tourists to the region for major sporting events. The planning proposal will facilitate additional recreation facilities that add to the attractions at Glen Willow for locals and visitors alike.

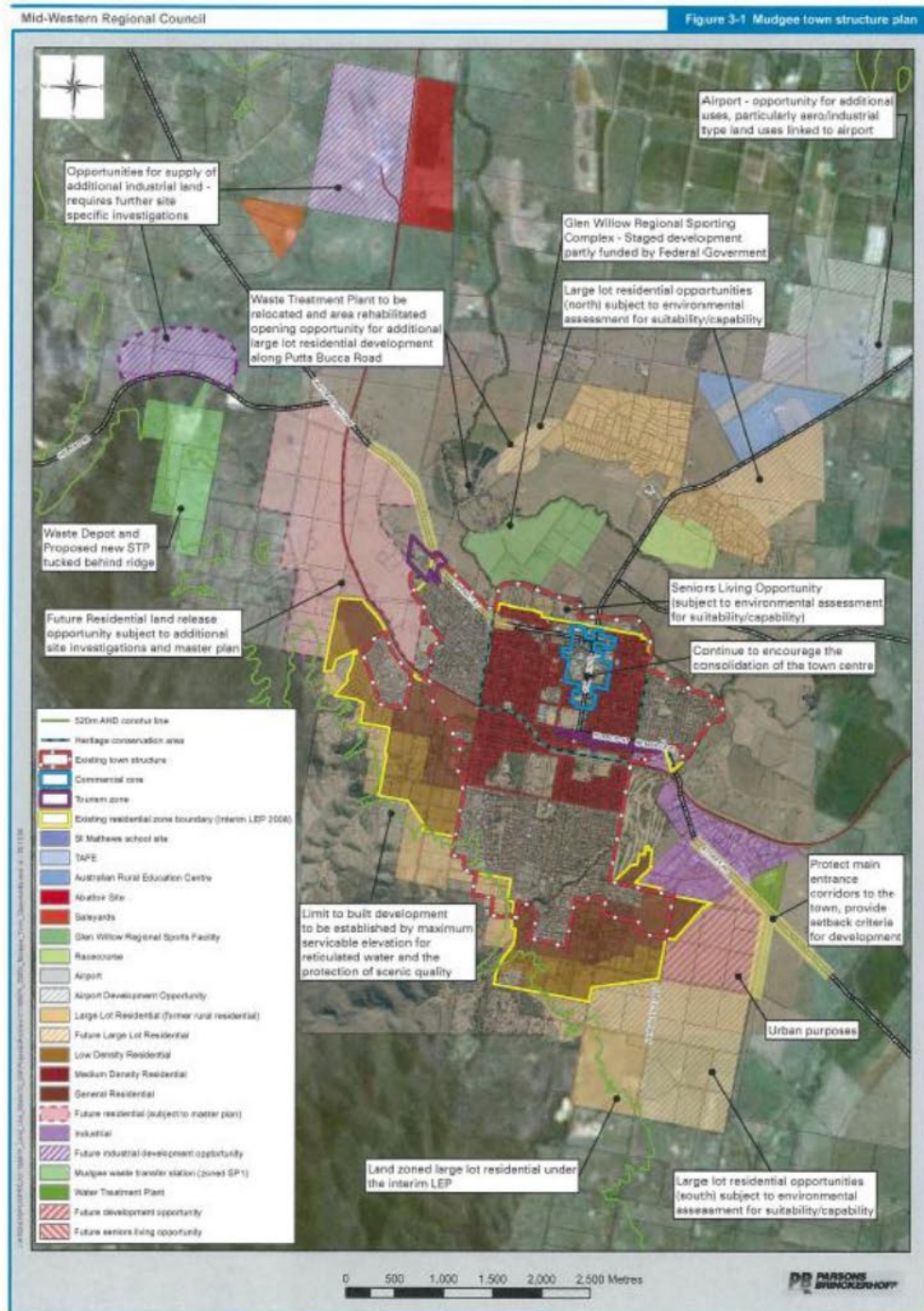
### Mid-Western Regional Comprehensive Land Use Strategy

The Mudgee Town Centre Structure Plan contained within the Comprehensive Land Use Strategy identifies the Glen Willow Regional Sporting Complex with staged development partly funded by the Federal Government, as shown in the extract below. A full copy of the Structure Plan is provided on the following page.



The subject land was not envisaged as being part of the Glen Willow Regional Sporting Complex at the time the Strategy was developed. However, the inclusion of the land does not prejudice other strategic directions as the land is not identified in the Structure Plan for any other specific development opportunity.

The development proposal represents a new stage of the Glen Willow redevelopment and is therefore consistent with the identification in the Comprehensive Land Use Strategy of staged development at Glen Willow.



**QUESTION 5** *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

There are no other applicable State or regional studies or strategies.

**QUESTION 6** *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The following table addresses the relevancy and consistency of the planning proposal with State Environmental Planning Policies.

<b>SEPP</b>	<b>Relevance and Consistency</b>
SEPP (Aboriginal Land) 2019	Not relevant. This SEPP only applies to certain mapped land in the Central Coast LGA.
SEPP (Activation Precincts) 2020	Not relevant. The subject land is not within an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	Not relevant.
SEPP (Building Sustainability Index: BASIX) 2004	Not relevant.
SEPP (Coastal Management) 2018	Not relevant. The proposal is not in the coastal zone.
SEPP (Concurrences and Consents) 2018	Not relevant.
SEPP (Educational Establishments and Child Care Facilities) 2017	Not relevant.
SEPP (Exempt and Complying Development Codes) 2008	Not relevant.
SEPP (Gosford City Centre) 2018	Not relevant.
SEPP (Housing for Seniors or People with a Disability) 2004	Not relevant.
<b>SEPP (Infrastructure) 2007</b>	<p>Relevant. This SEPP provides approval pathways for various infrastructure projects, including identifying development without consent and exempt development on public reserves. The SEPP also identifies certain traffic generating development that requires referral to Transport for NSW.</p> <p>Rezoning the land to RE1 Public Recreation will provide the opportunity for certain works and infrastructure relating to public reserves to be undertaken in accordance with the SEPP requirements.</p> <p>The proposal is not considered to be traffic generating development under clause 104 of the SEPP.</p>

SEPP (Koala Habitat Protection) 2020	Not relevant. This SEPP does not apply to land in the RU4 or RE1 zones.
<b>SEPP (Koala Habitat Protection) 2021</b>	<p>Relevant. The subject land is greater than 1ha in size and is currently zoned RU4 and proposed to be zoned RE1. There is no approved koala management plan applying to the land.</p> <p>The proposed rezoning and the future development of recreation facilities does not require the removal of any native vegetation. It is therefore considered that the planning proposal and future development will have no impact on koalas or koala habitat.</p>
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not relevant.
SEPP (Kumell Peninsula) 1989	Not relevant.
SEPP (Major Infrastructure Corridors) 2020	Not relevant.
<b>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</b>	<p>Relevant. This SEPP standardises the approach throughout NSW to the assessment and approval of mining activities under Part 4 of the EP&amp;A Act. Clause 13 of the SEPP applies to an application for consent for development on land that is in the vicinity of an existing mine, petroleum production facility or extractive industry, or identified on a map as being the location of State or regionally significant resources of minerals, petroleum or extractive materials, or identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.</p> <p>Consultation with the Department of Regional NSW – Mining, Exploration and Geoscience (MEG) to determine if clause 13 of the SEPP applies will be undertaken during public exhibition of the planning proposal.</p>
SEPP No 19—Bushland in Urban Areas	Not relevant. This SEPP applies only to Sydney metropolitan council areas.
SEPP No 21—Caravan Parks	Not relevant.
SEPP No 33—Hazardous and Offensive Development	Not relevant.
SEPP No 36—Manufactured Home Estates	Not relevant.
SEPP No 47—Moore Park Showground	Not relevant.

SEPP No 50—Canal Estate Development	Not relevant.
<b>SEPP No 55—Remediation of Land</b>	<p>Relevant. This SEPP introduces planning controls for the remediation of contaminated land. The policy states that land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.</p> <p>In accordance with Clause 6 of SEPP 55, the subject land has been considered with respect to the likelihood of contamination. Mid-Western Regional Council's records indicate that the subject land is unlikely to be contaminated. See further discussion under Question 9.</p> <p>The subject land is considered to be suitable for the proposed change of use from rural and rural-residential purposes to recreation purposes.</p>
SEPP No 64—Advertising and Signage	Not relevant.
SEPP No 65—Design Quality of Residential Apartment Development	Not relevant.
SEPP No 70—Affordable Housing (Revised Schemes)	Not relevant.
SEPP (Penrith Lakes Scheme) 1989	Not relevant.
<b>SEPP (Primary Production and Rural Development) 2019</b>	<p>Relevant. The subject land is currently zoned RU4 Primary Production Small Lots and is identified on the draft State Significant Agricultural Land map currently on public exhibition.</p> <p>Notwithstanding the inclusion of the land on the draft map, the land is not considered to be State significant agricultural land given its relatively small size, its public ownership and the recent construction of a road through the site. The adjoining land to the east is also not considered to be important agricultural land, again due to the small size and as it adjoins land used as a retail plant nursery.</p> <p>It is considered that the proposed rezoning of the land from RU4 Primary Production Small Lots to RE1 Public Recreation and the development of recreation facilities will not result in the loss of State significant agricultural land or cause any land use conflicts with any important agricultural land around Mudgee.</p>
SEPP (State and Regional Development) 2011	Not relevant.
SEPP (State Significant Precincts) 2005	Not relevant. The land is not a state significant

	precinct.
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	Not relevant.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not relevant.
State Environmental Planning Policy (Three Ports) 2013	Not relevant.
State Environmental Planning Policy (Urban Renewal) 2010	Not relevant.
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>	Relevant. This SEPP applies to land in the RE1 Public Recreation zone and outlines the approval requirements for clearing of vegetation.  The planning proposal seeks to rezone the land to RE1 Public Recreation. However, the planning proposal does not necessitate any clearing of native vegetation.
State Environmental Planning Policy (Western Sydney Aerotropolis) 2020	Not relevant.
State Environmental Planning Policy (Western Sydney Employment Area) 2009	Not relevant.
State Environmental Planning Policy (Western Sydney Parklands) 2009	Not relevant.

**QUESTION 7** *Is the planning proposal consistent with applicable Ministerial Directions?*

The following table addresses the relevancy and consistency of the planning proposal with Ministerial Directions.

<b>Direction</b>	<b>Relevance and Consistency</b>
1.1 Business and Industrial Zones	Not relevant
<p><b>1.2 Rural Zones</b></p> <p>This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>The objective of this Direction is to protect the agricultural production value of rural land.</p>	<p>Relevant. The planning proposal is consistent with this direction as it does not propose to rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>The planning proposal seeks to rezone land from a rural zone to a recreation zone.</p>



<p><b>1.3 Mining, Petroleum Production and Extractive Industries</b></p> <p>This direction applies when a relevant planning authority prepares a Planning Proposal that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</p> <p>The objective of this Direction is to ensure that the future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>	<p>Relevant. The Planning Proposal is inconsistent with this Direction as it proposes a zone that prohibits mining and extractive industries. The proposed land use (recreation facilities) would also be incompatible with any mining or extractive industries.</p> <p>The direction requires consultation with the Department of Primary Industries to identify if the planning proposal will affect any resources of State or regional significance.</p> <p>A planning proposal may be inconsistent with the direction if Council can satisfy the Department of Primary Industries that the inconsistency is of minor significance.</p> <p>Consultation with the Department of Regional NSW – Mining, Exploration and Geoscience (MEG) will be undertaken during public exhibition of the planning proposal.</p>
<p>1.4 Oyster Aquaculture</p>	<p>Not relevant</p>
<p><b>1.5 Rural Lands</b></p> <p>This Direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural or environment protection zone or that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>The objectives of this Direction include to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.</p>	<p>Relevant. The planning proposal is consistent with this direction as:</p> <ul style="list-style-type: none"> <li>• It is consistent with the directions in the Central West and Orana Regional Plan as addressed under Question 3 above and Council’s Local Strategic Planning Statement as addressed under Question 4 above,</li> <li>• It does not affect land of agricultural significance for the State or the local rural community,</li> <li>• It will not negatively affect existing identified environmental values along the Cudgegong River,</li> <li>• The natural and physical constraints of the land have been considered and addressed in this planning proposal,</li> <li>• It will not cause rural land use conflicts, and</li> <li>• The further development of the Glen Willow Regional Sports Complex is considered to be in the public interest, having significant social and economic benefits to the community.</li> </ul>
<p>2.1 Environment Protection Zone</p>	<p>Not relevant</p>
<p>2.2 Coastal Management</p>	<p>Not relevant</p>

<p><b>2.3 Heritage Conservation</b></p> <p>This Direction applies when a relevant planning authority prepares a Planning Proposal. The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>Relevant. This Planning Proposal is not inconsistent with this Direction as relevant provisions to facilitate the conservation of heritage items and Aboriginal objects, areas or places are already contained in the Mid-Western Regional LEP 2012 and no changes to these provisions are proposed.</p> <p>The site does not contain a heritage item or any known Aboriginal objects, areas or places.</p>
<p>2.4 Recreation Vehicle Areas</p>	<p>Not relevant</p>
<p>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPS</p>	<p>Not relevant</p>
<p><b>2.6 Remediation of Contaminated Land</b></p> <p>This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p style="padding-left: 20px;">(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p style="padding-left: 20px;">(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and</p>	<p>Relevant. The subject land is not within an investigation area. The site is known to have been used for a purpose referred to in Table 1 of the Contaminated Land Planning Guidelines, being agricultural/horticultural activities, as the site was formerly used for the grazing of sheep and horses ancillary to residential occupation of the land.</p> <p>These activities are not considered likely to have caused contamination of the land.</p> <p>Given this known history, it is not considered necessary to obtain a preliminary investigation report for the planning proposal. The only likely contamination of the land is from the potential for asbestos fragments from the historic demolition of any sheds that may have been on the land.</p>

remediation are considered by planning proposal authorities.	
3.1 Residential Zones	Not relevant
3.2 Caravan Parks and Manufactured Home Estates	Not relevant
3.3 Revoked	N/A
<p><b>3.4 Integrating Land Use and Transport</b></p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve a range of planning objectives relating to accessibility.</p>	<p>Not relevant. The planning proposal does not relate to land zoned, or proposed to be zoned for residential, business, industrial, village or tourist purposes.</p>
<p><b>3.5 Development Near Regulated Airports and Defence Airfields</b></p> <p>This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. The objectives of this Direction are to ensure the effective and safe operation of aerodromes, ensure that their operation is not compromised by development and ensure development for residential purposes is not adversely affected by aircraft noise.</p>	<p>Relevant. The planning proposal relates to land in the vicinity of the Mudgee Airport. The subject land is partly within the landing or take-off surface limitation areas and the obstacle surface limitation height is between 500 and 510m AHD, as shown below.</p> <p>The subject land is within the floodplain of the Cudgegong River and has ground levels between 447m and 448m AHD. The proposed recreation facilities will be low in height and not exceed the obstacle surface limit.</p> <p>It is anticipated that consultation with the operator of the Mudgee Airport will be undertaken as a requirement of the Gateway Determination.</p>

3.6 Shooting Ranges	Not relevant
3.7 Reduction in non-hosted short term rental accommodation period	Not relevant
4.1 Acid Sulfate Soils	Not relevant
4.2 Mine Subsidence and Unstable Land	Not relevant
<p><b>4.3 Flooding</b></p> <p>This Direction applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p>	<p>Relevant. This Planning Proposal is consistent with this direction as the extent of flooding affecting the subject land is known.</p> <p>The subject land is within the 1% AEP flood level. The proposed development of recreation facilities is a compatible activity on flood prone land and the proposed developments will have no significant impact on flood levels.</p>

<p><b>4.4 Planning for Bushfire Protection</b></p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.</p>	<p>Not relevant as the subject land is not mapped as bushfire prone and is not in close proximity to land mapped as bushfire prone land.</p>
<p>5.1 Revoked</p>	<p>N/A</p>
<p>5.2 Sydney Drinking Water Catchments</p>	<p>Not relevant</p>
<p>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</p>	<p>Not relevant</p>
<p>5.4 Revoked</p>	<p>N/A</p>
<p>5.6 Revoked</p>	<p>N/A</p>
<p>5.7 Revoked</p>	<p>N/A</p>
<p>5.8 Revoked</p>	<p>N/A</p>
<p>5.9 North West Rail Link Corridor Strategy</p>	<p>Not relevant</p>
<p><b>5.10 Implementation of Regional Plans</b></p> <p>Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.</p>	<p>Relevant. The Planning Proposal is consistent with the directions in the Central West and Orana Regional Plan as addressed under Question 3 above.</p>
<p>5.11 Development of Aboriginal Land Council Land</p>	<p>Not relevant</p>
<p><b>6.1 Approval and Referral Requirements</b></p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p>	<p>Relevant. The Planning Proposal is consistent with the direction as it does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority and does not identify development as designated development.</p>

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	
6.2 Reserving Land for Public Purposes	Not relevant
<p><b>6.3 Site Specific Provisions</b></p> <p>This Direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.</p> <p>The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.</p>	Relevant. The Planning Proposal is consistent with this direction as it seeks to rezone the subject land to a zone that facilitates the proposed development. No additional permitted land use is required and no site specific development standards or requirements are proposed.
7.1 to 7.13 Metropolitan Planning	Not relevant

## SECTION C ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

**QUESTION 8** *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. The subject land is predominantly cleared of native vegetation, with some scattered paddock trees and some planted vegetation around the former dwelling on site. The site is not mapped as containing any high value vegetation. The site adjoins high value vegetation along the Cudgegong River. No development associated with this planning proposal will have any impact on the high value riparian vegetation along the river.

**QUESTION 9** *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. Environmental issues considered in the development of the planning proposal are outlined below.

### Environmental Heritage

The subject land does not contain a heritage item, is not in a heritage conservation area and is unlikely to contain any significant archaeological deposits. It is considered that the planning proposal will have no detrimental impact on items of environmental heritage.

### Aboriginal Cultural Heritage

An Aboriginal Cultural Heritage Assessment was undertaken for the whole of the Glen Willow site by the Mudgee Local Aboriginal Land Council in 2009. No items were found through the assessment process. While the subject land was not part of Glen Willow at the time of the assessment, the land is very similar in nature and the results of the assessment are highly likely to be replicated for the subject land.

It is not considered that a further Aboriginal Cultural Heritage Assessment is required for the planning proposal or for the development of recreation facilities. However, any future development of recreation facilities on the site, where they involve soil disturbance, should be undertaken in accordance with the legislative requirements to protect any Aboriginal item uncovered during construction.

It is considered that the planning proposal will have no detrimental impact on Aboriginal cultural heritage.

### Potential Site Contamination

The subject land has a long history of residential and rural activities, primarily the grazing of sheep and horses ancillary to residential occupation of the land.

There is potential for asbestos to be found in the existing dwelling and fragments may be located in the soil from the demolition of any previous sheds.

There is no evidence of any previous use that is likely to have caused contamination of the site and the site is considered suitable for the proposed use.

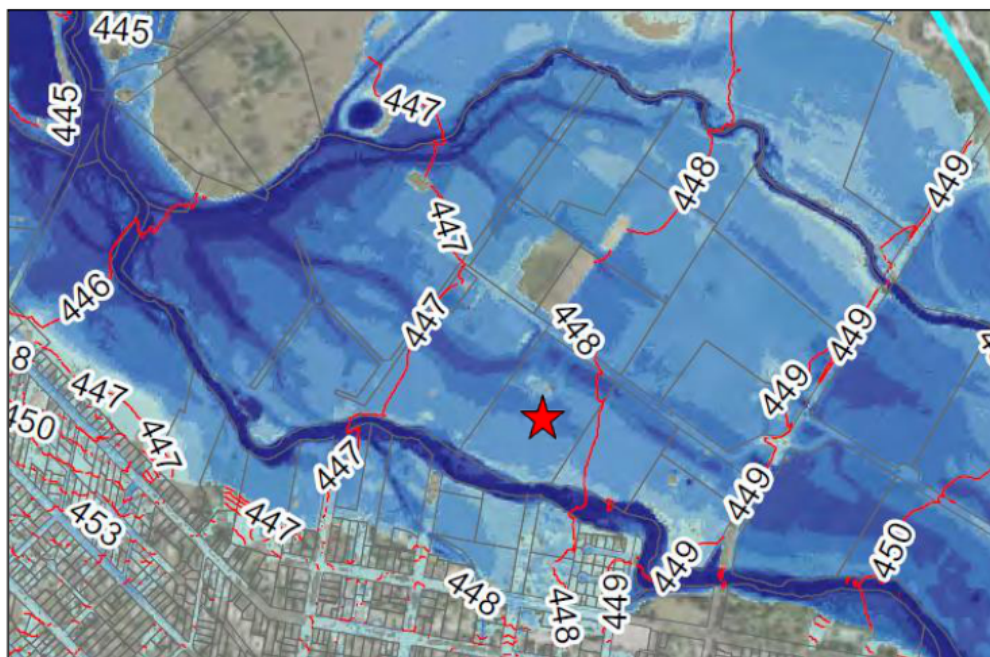
### Environmental Hazards

#### **Bushfire**

The subject land is not mapped as bushfire prone and the proposed development of the site for recreation facilities is not a kind of development that requires a bushfire assessment under Planning for Bushfire Protection 2019.

#### **Flooding**

The subject land is within the 1% AEP flood level, as shown in the map below. The proposed development of recreation facilities is a compatible activity on flood prone land and the proposed developments will have no significant impact on flood levels.



★ Site of proposed Sports Training and Accommodation Facility

**QUESTION 10** *Has the planning proposal adequately addressed any social and economic effects?*

Yes. Social and economic issues considered in the development of the planning proposal are outlined below.

**Acoustic Impacts**

The proposed rezoning and development of recreation facilities is considered unlikely to have detrimental impacts on any nearby sensitive receivers. The nearest sensitive receiver is a caravan park across the Cudgegong River, with the nearest permanently occupied mobile dwelling approximately 160m from the proposed development. The nearest residential dwelling is approximately 240m from the proposed development. These sensitive receivers are shielded from the proposed development by native vegetation along the Cudgegong River.

It is not considered that an acoustic report is warranted for the planning proposal, however an acoustic report may be submitted with any development application required to be prepared for recreation facilities that do not meet the provisions of the Infrastructure SEPP.

**Other Social Impacts**

The proposed rezoning and development of recreation facilities will have significant positive social impacts for Mudgee and the wider Mid-Western community. As part of the growing regional sports complex known as Glen Willow, the proposal will boost participation in sport and healthy lifestyles at a local level. This planning proposal furthers the Council's local and regional sport and recreation objectives.

**Economic Impacts**

The proposed rezoning and development of recreation facilities will have significant positive economic impacts for Mudgee and wider Mid-Western community. The additional facilities at the Glen Willow Regional Sports Complex will increase the attractiveness of Mudgee as a tourist destination for people interested in sports and fitness.

**SECTION D STATE AND COMMONWEALTH INTERESTS**

**QUESTION 11** *Is there adequate public infrastructure for the planning proposal?*

Yes. Infrastructure issues considered in the development of the planning proposal are outlined below.

**Sewer Services**

The subject land is capable of being connected to Council's reticulated sewer system should it be required.

**Water Supply**

The subject land is capable of being connected to Council's reticulated water supply system should it be required.

**Traffic and Transport**

The subject land has direct frontage to Pitts Lane and a new internal road connection has been constructed through the site improving movement of traffic across the site. Significant areas of parking are available in the Glen Willow complex and there is adequate capacity on the subject land for additional car parking should it be required.



The proposed recreation facilities will not generate significant additional traffic to the road network as the facilities are likely to be used by people who already access the sporting facilities at Glen Willow and the site is easily accessible by people who choose to walk or cycle to the facilities.

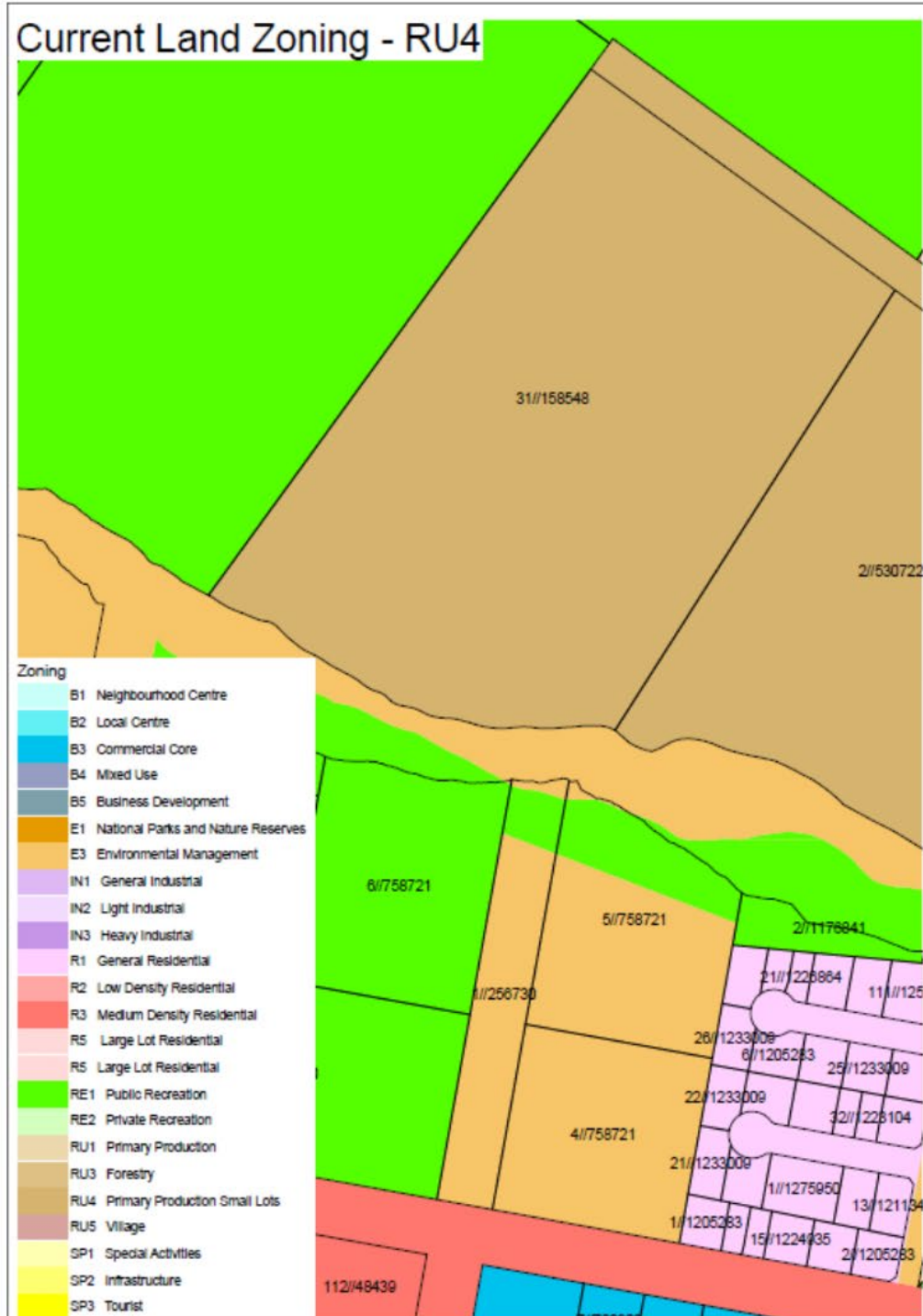
A Review of Environmental Factors was undertaken by Mid-Western Regional Council as part of the approval for the road works under Part 5 of the *Environmental Planning and Assessment Act 1979*. No further traffic assessment is considered warranted for the planning proposal.

**QUESTION 12** *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination??*

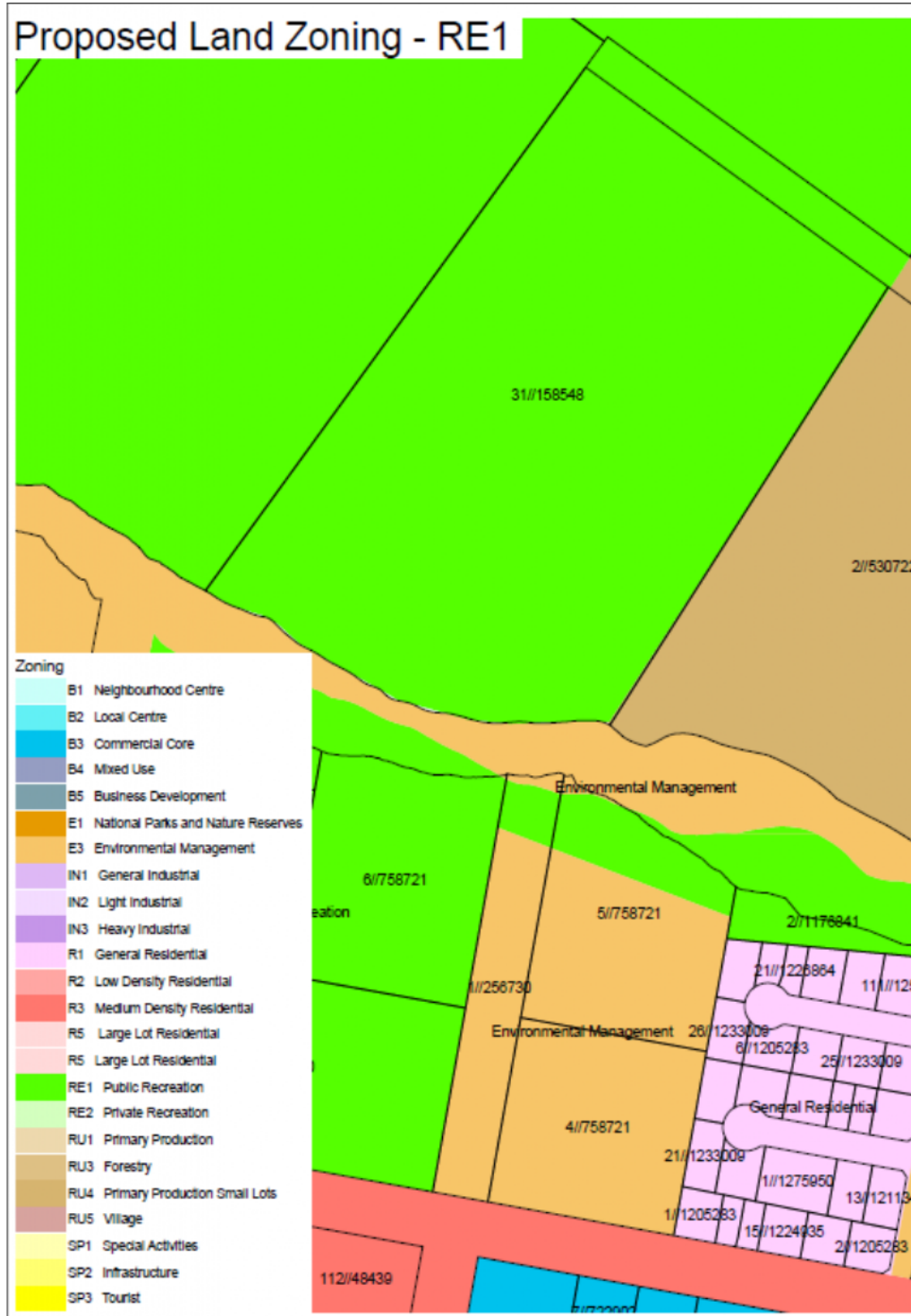
Consultation with State and Commonwealth public authorities has not yet been undertaken. In issuing a Gateway Determination, the Department of Planning, Industry and Environment will outline those agencies to be consulted with.

**Part 4 Mapping**

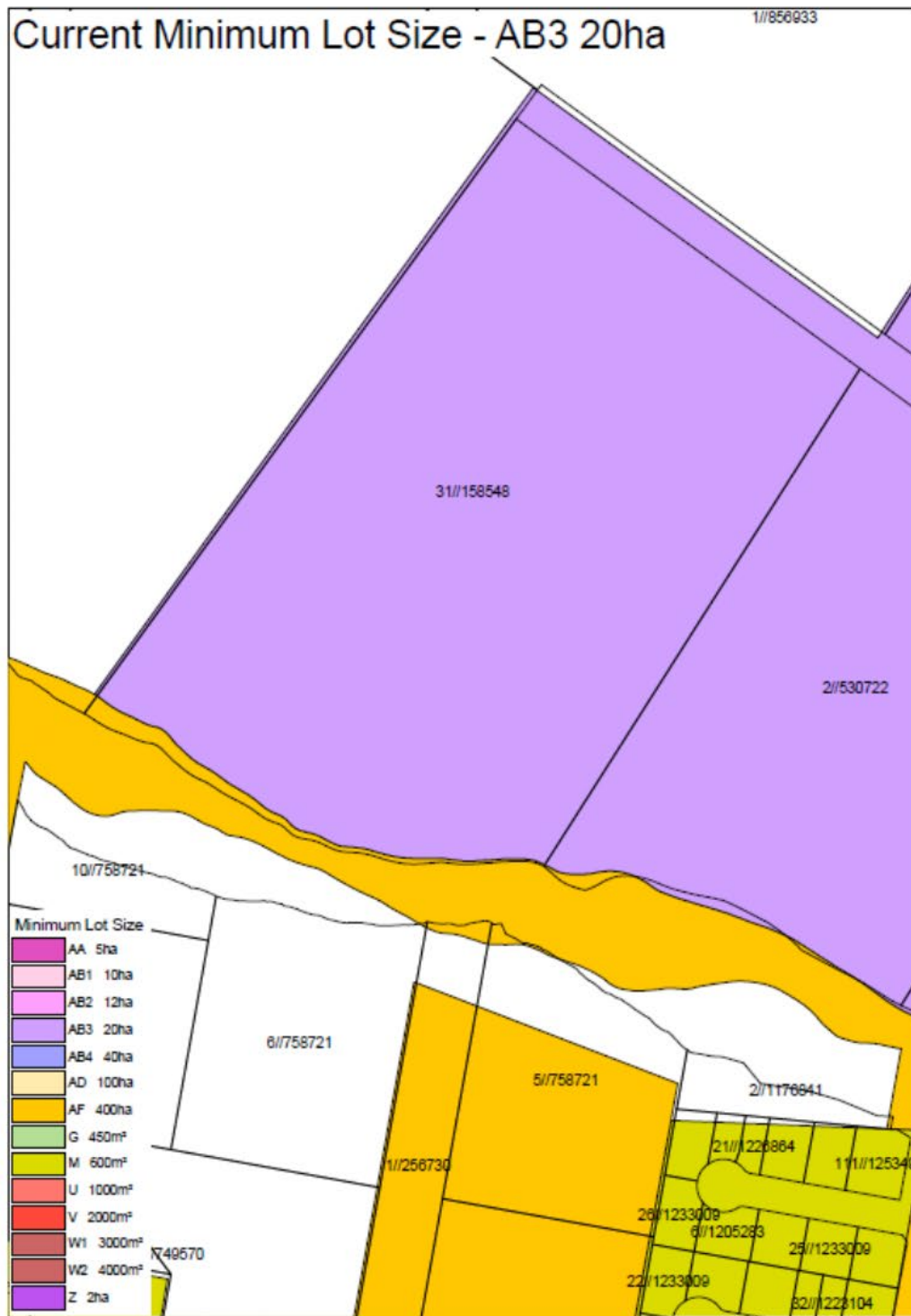
**Existing Zoning**



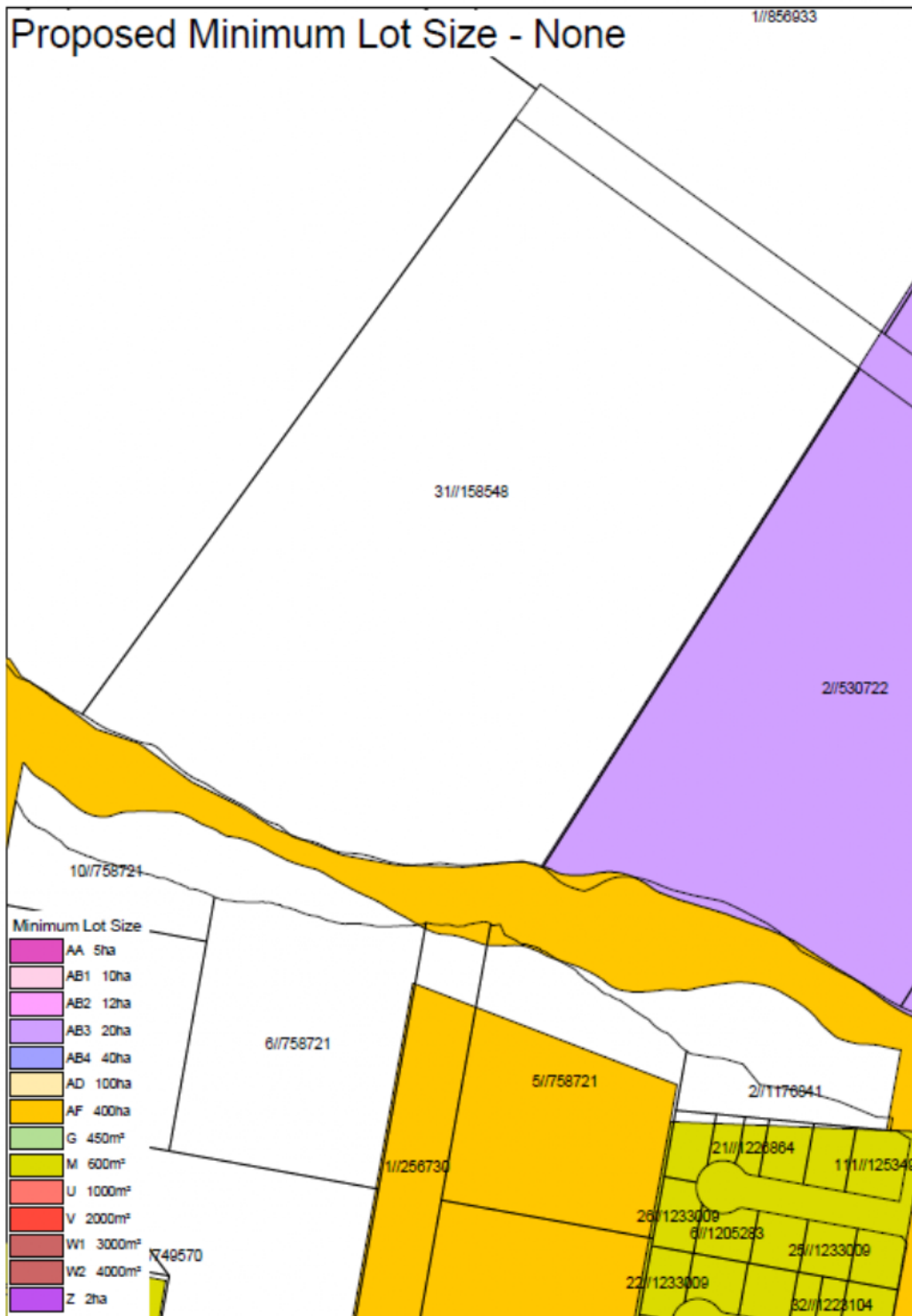
**Proposed Zoning**



Existing Minimum Lot Size



**Proposed Minimum Lot Size**



## Part 5 Community consultation

The Department of Planning, Industry and Environment will confirm community consultation requirements through the Gateway Determination process. If this Planning Proposal is supported, it is likely that the Proposal will be exhibited as a low impact proposal for a period of not less than 14 days in accordance with Section 5.5.2 of A Guide to Preparing LEPs. A low impact proposal is defined as ‘a *Planning Proposal that, in the opinion of the person making the Gateway determination is:*

- *consistent with the pattern of surrounding land use zones and/or land uses*
- *consistent with the strategic planning framework*
- *presents no issues with regard to infrastructure servicing*
- *not a principal LEP*
- *does not reclassify public land.”*

Public exhibition of the Planning Proposal will include notification on the Mid-Western Regional Council website and in writing to affected and adjacent landowners.

## Part 6 Project timeline

The Project Timeline will assist with tracking the progress of the Planning Proposal through the various stages of consultation and approval. It is estimated that this amendment to Mid-Western Regional Local Environmental Plan 2013 will be completed by September 2022.

Council requests delegation to carry out certain plan-making functions in relation to this proposal.

### Estimated Timeline

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Consideration by Council	February 2022
STAGE 2 – Council Decision	March 2022
STAGE 3 –Gateway Determination	April 2022
STAGE 4 – Pre exhibition	May 2022
STAGE 5 – Commencement and completion of public exhibition period	June 2022
STAGE 6 – Consideration of submissions	July 2022
STAGE 7 – Post exhibition review and additional studies	August 2022
STAGE 8 – Submission to the Department for finalisation (where applicable)	August 2022
STAGE 9 – Gazettal of LEP amendment	September 2022



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## DRAFT PLAN OF MANAGEMENT

### Cudgegong Waters Park



March 2020

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**Version Control**

Date	Comment
08 / 04 / 2020	Initial Draft (V1.5)
29 / 09 / 2020	Amendments following Council officer Review (V2)
02 / 12 / 2021	Amendments following further Council officer Review. Amendment of New Residence and café location and other minor edits (V2.1).
22 / 02 / 2022	Minor amendments (V2.2)
01 / 04 / 2022	Addition of tenure details and other minor amendments (V2.3)

Plan of Management prepared by  
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## SUMMARY

Cudgegong Waters Park (The Park) is on a Crown land reserve owned by the State Government of New South Wales, managed by the Mid-Western Regional Council (Council) for the benefit of the community. The Park is located 230 km north west of Sydney and within a short drive of the towns of Mudgee, Rylstone and Kandos in central western New South Wales (see Figure 1). It offers visitors a range of facilities including cabins, camp sites, amenities and a store and the opportunity to experience scenic inland vistas of ranges and lakes, fishing, water sports and walking.

The Park was created after the construction of Windamere Dam (completed in 1984). Providing water for downstream towns, stock and domestic supplies, and irrigated agriculture, Windamere Dam has a capacity of 368,120 megalitres (about half of the volume of Sydney Harbour)<sup>1</sup>, is stocked with silver and golden perch, trout and Murray cod, providing impressive fishing and powered boating opportunities. The Park is located on its south-western foreshore, around 13 km upstream from the dam wall.

This Plan of Management (PoM) works towards the following vision:

***“A regional recreation destination where the community can enjoy the Cudgegong’s natural assets”.***

The intention of this PoM is to provide Council with a framework that enables decisions in regard to the site to be made on an informed, consistent and equitable basis over the next decade. Specifically, it will provide a strategic framework to:

- direct the operation and development of the land
- manage and conserve the environmental significance of the land
- identify and address the legal and policy requirements of managing the land
- identify and manage risks
- promote and protect the intended use of the land occupied by the Park.

This PoM meets all of the requirements of the *Local Government Act 1993* (the LGA). Under this PoM, the land at the Park is categorised under the LGA as:

- General Community Use
- Natural Area – Bushland.

A description of each category of land as it exists at the Park is provided.

The current use patterns, built and natural assets and their condition, emerging trends, constraints and influences, have been considered within this PoM.

<sup>1</sup> Windamere Dam Factsheet; [watersw.com.au](http://watersw.com.au).

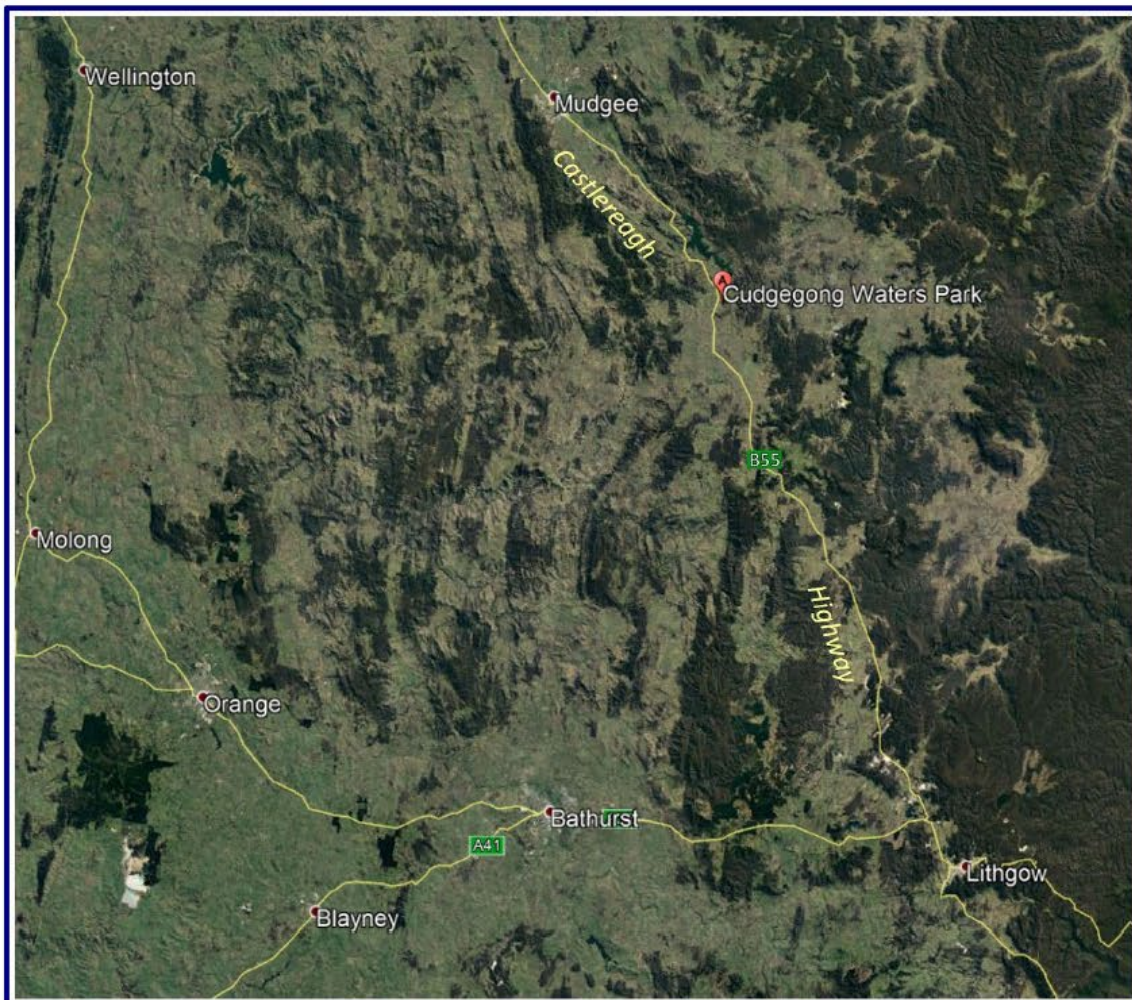


Figure 1 – Locality Diagram, Cudgegong Waters Park

Key challenges for the Park are to:

- generate new sources of income through improved and additional infrastructure
- maintain facilities and services whilst contending with high costs associated with the management of aging infrastructure
- improve the aesthetic appeal of the built infrastructure components
- ensure adoption of appropriate approval processes for required works, coupled with administrative and legislative requirements
- manage facility capacity and user influxes at peak times (Easter, fishing competitions etc.)
- ensure tenures and their conditions are adequate and appropriate
- ensure compliance with legislative requirements



- ensure community access where appropriate, is unimpeded, and
- manage environmental values where relevant.

Issues raised in discussions with Council officers and tenure holders at Cudgegong Waters Park have been considered in developing a range of appropriate responses for its management, including works, approvals, accountabilities, communication and revenue.

This PoM for the Park therefore presents modified strategies as well as new directions which will drive revenue raising through on-ground improvements designed to attract new business. The PoM responds appropriately to all regulatory requirements over the next 10 years, whilst considering the needs of current and longer-term users and visitors, and their interaction with the built and natural environment.

This PoM is presented in two principal sections:

**Part A – BACKGROUND;** defines and describes the Park in terms of the required policy and legislative framework, the built and the natural environment, and current use patterns.

**Part B – THE PLAN;** describes what is determined for the future of the Park, including accountabilities, opportunities for increased income, and a Development Plan which addresses and depicts the needs and priorities of the Park into the next decade. An Implementation Plan provides the strategies, actions and accountabilities required to achieve this PoM.



## PART A – BACKGROUND

### 1 HISTORY

The first European to enter *Wiradjuri* indigenous lands of the Cudgegong River Valley and cross that river, was believed to have been James Blackman in 1821. Blackman was born in Kent, England in 1759 and spent some years in the early times of the colony surviving the floods of the Hawkesbury River in the 1807 period, before he grabbed the chance given to him by Governor Macquarie to be one of ten farmers to settle the Bathurst area in 1818.

Blackman was shortly followed to the Cudgegong Valley by William Lawson, a member of the first European party to cross the Blue Mountains in 1813. Lawson took up 6000 acres along the Cudgegong River. The Cox brothers Henry and George (sons of William Cox who built the first road over the Blue Mountains) were next to follow and are accredited as the first Europeans to settle permanently in the valley<sup>2</sup>.

Although initial relationships between the local tribe of the *Wiradjuri* and the early Europeans were amicable, friction inevitably arose between the groups. By 1824, martial law was declared and by 1848, the local tribe had been decimated with William Cox claiming that the last local aboriginal had died in 1876.

Under Crown Lands legislation, there has been a complex history of dedications and appointments made over the lands now comprising the Park. Prior to and during the construction of the Windamere Dam in the late 1970s-early 1980's, the government commenced the process of the resumption of privately held lands for that purpose. The rural land was acquired for the dam's major infrastructure (dam wall, roads, and its required works and buffers), the area of the water body below Top Water Level (TWL) and the adjoining lands which became known as the dam foreshores – the immediate catchment of the dam. This was necessary for the government to regulate land management of those areas to avoid unnecessary soil erosion and damage to infrastructure including a reduction of dam capacity. It is from the foreshore area, that the Park was created.

Figure 2 shows an old title map which includes the title holders<sup>3</sup> at the time and covering the lands that are now the Cudgegong Waters Park. The names of Wilkins, Bowman and Morris are well known earlier settlers of the Cudgegong valley<sup>4</sup>. The village which served these early communities and farms, Cudgegong, now lies submerged under the waters of Windamere Dam, just downstream from the Park.

In 1985 Deposited Plan (DP) 713654 was registered relocating Cudgegong Road to its current position.

The registration of DP 737226 in 1986 created the current lots and stipulated that the land described be surrendered to the Crown and Reserved for Public Recreation.

On 30 January 1987, Lots 1, 2 and 3 DP 737226 Parish Bocoble, County of Roxburgh (totaling 55.06 hectares) were reserved from sale for the Purpose of Public Recreation, to be called *Cudgegong Waters Park*, and allocated Reserve No R.190025. The (former) Rylstone Shire Council was appointed

<sup>2</sup> Magical Mudgee – History of Mudgee: [www.mudgee.net.au](http://www.mudgee.net.au).

<sup>3</sup> In 1888 the land within the Cudgegong Waters Park was held by W Bowman, W Readford, T Morris, G McQuiggin and W Wilkins.

<sup>4</sup> Cudgegong Valley History Wiki.

as Trust Manager<sup>5</sup>.

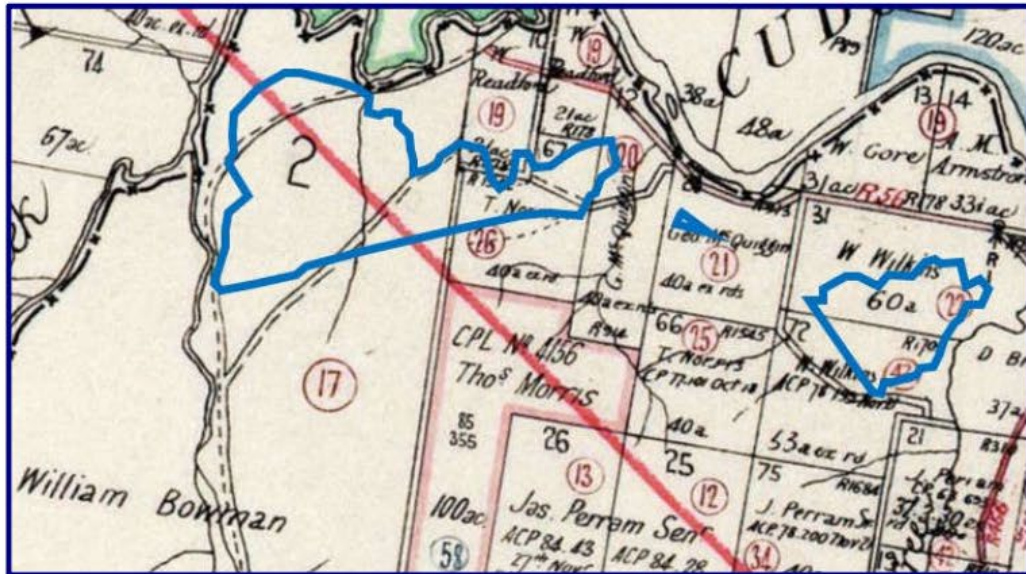


Figure 2 – Part 1st Edition Parish of Bocoble County of Roxburgh  
1888 map showing Cudgegong Waters Park bound in blue.

The first Plan of Management for Cudgegong Waters Park was prepared and exhibited in 1999 under Division 6 Part 5A of the (then) *Crown Lands Act 1989*.

<sup>5</sup> Following various legislative changes in the management of Crown land, and changes in the areas and names of local government authorities Mid-Western Region Council is now Crown land manager of Cudgegong Waters Park under the *Crown Land Management Act 2016*.



## 2 LEGAL FRAMEWORK

Crown land is owned by the State of New South Wales for the benefit of all persons. Local Government Authorities manage Crown land on behalf of the State, as Crown Land Managers, under Division 3.4 of the *Crown Land Management Act 2016* (CLMA). The CLMA provides that a council manager<sup>6</sup> is authorised to classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the *Local Government Act 1993* (LGA).

The CLMA requires councils to prepare Plans of Management for Crown reserves as per the requirement of the LGA.

The LGA provides the legislative framework for Council's day to day operations. It identifies Council's responsibility to actively manage land and to involve the community in developing a strategy for management.

The operation of the Holiday Park (see section 3.1) is subject to *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* and the *Local Government (General) Regulation 2021*.

This PoM has been prepared in order to achieve a balanced, responsible and ecologically sustainable use of the land and to ensure that it addresses the needs of the local area, the broader community and the environment. It has been prepared to meet the requirements of the LGA, as amended by the *Local Government Amendment (Community Land Management) Act 1998*.

### 2.1 Public Land

This land, briefly described above, is Crown land managed by Mid-Western Regional Council.

Under the LGA, all public lands must be classified as either community or operational land. The land shown in Figure 3 has been classified 'Community' land under the provisions of the LGA and Section 3.22(1) of the CLMA.

The purpose of the classification is to clearly delineate which land should be kept for use by the general public (community land) and which land need not be kept for that purpose (operational land). The major consequence of the classification is that it determines the ease or difficulty by which the land may be alienated by sale, lease or other means. Community land would ordinarily comprise land such as a sportsground, hall, public park etc.,<sup>7</sup> and operational land would consist of land which facilitates carrying out of a public service, such as works depots, or land held as a temporary asset or investment.

Community land:

- cannot be sold
- cannot be leased, licensed or any other estate granted over the land for more than 30 years
- must have a Plan of Management prepared for it.

<sup>6</sup> A council manager is a local council which has been appointed crown land manager of a reserve under Section 3.3 of the *Crown Land Management Act 2016*.

<sup>7</sup> See the note to *Chapter 6, Part 2 of the Local Government Act 1993*.





Figure 3 – Site Plan



## 2.2 Plans of Management

The LGA requires that Council prepare a PoM in conjunction with the community to identify the important features of the land, clarify how Council will manage the land and how the land may be used or developed. Until a PoM for community land is adopted, the nature and use of the land cannot be changed. To change this, the Plan must be revised.

Council will undertake the required process as per Section 36 of the LGA and Section 3.23 of the CLMA for this PoM.

Specifically, the LGA requires that a PoM must identify:

- Category of the land.
- Objectives and performance targets of the Plan with respect to the land.
- Means by which the council proposes to achieve the Plan's objectives and performance targets.
- Manner in which the council proposes to assess the objectives and performance targets.
- Condition of the land, and of any buildings or other improvements on the land, as at the adoption of the Plan.
- Use of the land and any such buildings or improvements as at adoption.
- Specific purposes for which the land, and any such buildings or improvements, will be allowed to be used.
- Specific purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise.
- A description of the scale and intensity of any such permitted use or development.

## 2.3 Categorisation and Objectives

As required by legislation for the purposes of the PoM, community land is categorised as one of the following:

- Natural Area
  - Bushland
  - Wetland
  - Watercourse
  - Escarpment
  - Foreshore
- Sportsground
- Park
- Area of Cultural Significance



- General Community Use.

Once categorised, community land is also subject to specified objectives which are outlined in the LGA, and in this PoM (see Section 9).

## 2.4 Types of Plans

The LGA allows a PoM to cover one or multiple parcels of land.

Where multiple parcels of land are covered in one plan (Generic Plans), the LGA specifically states what needs to be included. Where a PoM covers one parcel of land (Specific Plans), like this plan, there is greater detail on what has to be prescribed in the Plan. A Generic Plan sets the framework of how the land is to be managed. A Specific Plan clearly outlines very precise management proposals.

PoMs for community land are periodically reviewed to enable changing social, economic and ecological conditions to be taken into account and consequently amendments to the Plan may occur. There has been one previous attempt at developing a Plan of Management for the Park. This was in 1999 and was compiled in accordance with the requirements of the (former) *Crown Lands Act 1989*.

The location of the Park is shown in Figure 1 and a more detailed site map, Figure 3.



### 3 THE SITE

#### 3.1 Land Parcels

The lands for which this PoM is compiled, lies on the foreshores of Windamere Dam within the Mid-Western Regional Council Local Government Area, approximately 38 km south east of Mudgee, and 20 km west of Rylstone in Central Western New South Wales.

The property address of Cudgegong Waters Park is 1858 Cudgegong Road, Cudgegong 2850, covering the following Lots and Deposited Plans (DP) in the Parish of Bocoble, County of Roxburgh (see Figure 3):

- Lot 1 DP 737266 (41.79 ha)
- Lot 2 DP 737266 (0.3313 ha)
- Lot 3 DP 737266 (12.94 ha).

Lot 1 includes the Holiday Park, being the land subject to an approval to operate a caravan park and camping ground under section 68 of the *Local Government Act 1993*. The area of the Holiday Park is shaded blue on Figure 3.

Although the Park consists of three unattached lots, its southern-most extremity is Cudgegong Road and it is bounded on all other sides by the State Water land of Windamere Dam. These boundaries approximate the banks of Cudgegong Creek in the west and Oakey Creek to the east

The total area of the Park is 55.06 hectares.

#### 3.2 Ownership and Management

The Park is on Crown land owned by the State of New South Wales. The land is subject to a Reserve (R.190025) for Public Recreation, under the *Crown Land Management Act 2016* (CLMA), established on 30 January 1987. All assets on the Reserve are owned by the State of New South Wales.

Rylstone Shire Council was initially appointed trustee on 30 January 1987 under the *Crown Lands Consolidation Act 1913*. Cudgegong Waters Park (R.100295) Reserve Trust was later assigned as trustee for R.190025 on 1 September 1995, under Section 95 of the *Crown Lands Act 1989* on the same day.

Following various legislative changes in the management of Crown land and to geographic boundaries, Mid-Western Regional Council is now Crown land manager of R.100295 for the purposes of the CLMA.

Section 3.21 of the CLMA authorises Council to manage the land as if it were public land within the meaning of the *Local Government Act 1993* (LGA). Under the LGA, all public lands must be classified as either community or operational land and this land has been classified 'Community' land.

Crown land in Australia is subject to Native title under the *Native Title Act 1993* (Commonwealth). On Crown land, Native title rights and interests must be considered unless:



- Native title has been extinguished, or
- Native title has been surrendered, or
- Determined by a court to no longer exist.

Some examples of acts which may affect Native title on Crown land or Crown reserves managed by Council include:

- the construction of new buildings and other facilities such as toilet blocks, walking tracks, tennis courts, grandstands and barbecues
- the construction of extensions to existing buildings
- the construction of new roads or tracks
- installation of infrastructure such as powerlines, sewerage pipes, etc
- the issue of a lease or licence
- the undertaking of major earthworks.

When proposing any act that may affect Native title on Crown land or Crown reserves the act must be authorised through Part 2 Division 3 of the *Native Title Act 1993 (Cwlth)*.

#### Aboriginal Land Rights

The *Aboriginal Land Rights Act 1983* (ALRA) seeks to compensate Aboriginal peoples for past dispossession, dislocation and loss of land in NSW. The lodgment of an aboriginal land claim (ALC) under section 36 of the ALRA, over Crown land creates an inchoate interest in the land for the claimant pending determination of the claim. The Department of Planning Industry and Environment – Crown lands (DPIE-CL) advises that, if the land is subject to an undetermined ALC, any works, development or tenures authorised by the PoM should not go ahead if:

- the proposed activity could prevent the land being transferred to an ALC claimant in the event that an undetermined claim is granted
- the proposed activity could impact or change the physical/environmental condition of the land, unless:
  - the council manager has obtained written consent from the claimant Aboriginal Land Council to carry out the proposed work or activity, and/or
  - the council manager has obtained a written statement from the Aboriginal Land Council confirming that the subject land is withdrawn (in whole or partial) from the land claim
- the proposed activity is a lease to be registered on title unless the council manager has obtained written consent from the claimant Aboriginal Land Council



## 4 PLANNING INSTRUMENTS AND POLICIES

The Park is managed and developed subject to this PoM, environmental planning instruments and Council policies.

### 4.1 State Environmental Planning Policies

The Park is subject to the State Environmental Planning Policies. Important amongst these in the development of the Park is the *State Environmental Planning Policy (Infrastructure) 2007* or the Infrastructure SEPP.

Section 65 of the Infrastructure SEPP provides that development for any purpose may be carried out without consent on Crown managed land, by or on behalf of a Crown land manager of the land if the development is for the purposes of implementing a plan of management adopted for the land in accordance with the *Local Government Act 1993*.

Other State Environmental Planning Policies are listed below. Those that are considered more relevant to the future of the Park and this PoM are underlined below and briefly described in **Appendix 2**.

- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007*
- *State Environmental Planning Policy No 21—Caravan Parks*
- *State Environmental Planning Policy No 33—Hazardous and Offensive Development*
- *State Environmental Planning Policy No 36—Manufactured Home Estates*
- *State Environmental Planning Policy No 55—Remediation of Land*
- *State Environmental Planning Policy No 64—Advertising Signage*
- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Concurrences and Consents) 2018*



- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *State Environmental Planning Policy (Koala Habitat Protection) 2020*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019*
- *State Environmental Planning Policy No 50—Canal Estate Development*

#### 4.2 Land Zoning

Under the Mid-Western Regional Council *Local Environmental Plan 2012* (LEP), the Park is zoned:

- RE1 – Public Recreation (Lot 1)
- RU1 – Primary Production (majority Lot 3)
- SP2 – Water Infrastructure (Lot 2 and part Lot 3).

The three separate sections of the Park are shown accordingly in Figure 4 (see red boundaries with RE1 Green; RU1 Brown; SP2 Yellow).

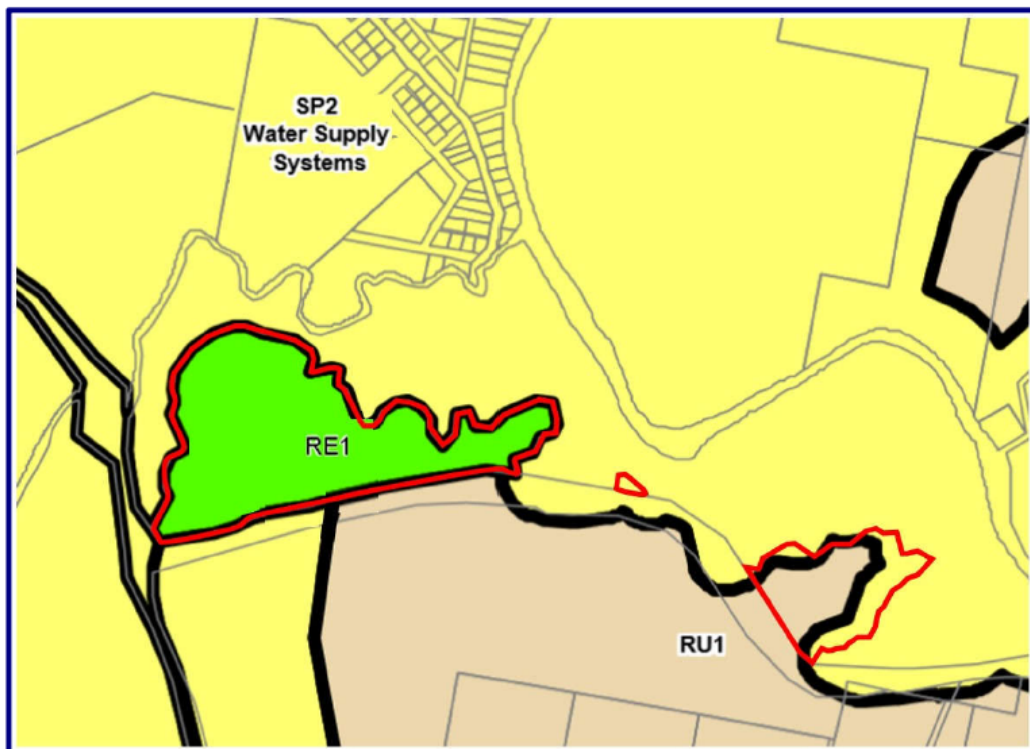


Figure 4 – Land Zones at Cudgegong Waters Park



### Zone RE1 Public Recreation

The objectives of the RE1 – Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

On land zoned RE1, the following activities are permitted without consent.

- Environmental protection works
- Roads
- Water reticulation systems.

On land zoned RE1, the following activities are permitted with consent:

- Boat launching ramps
- Boat sheds
- Charter tourism and boating facilities
- Community facilities
- Environmental facilities
- Flood mitigation works
- Helipads
- Information and education facilities
- Kiosks
- Markets
- Recreation areas
- Recreation facilities (indoor)
- Recreation facilities (major)
- Recreation facilities (outdoor)
- Research stations
- Restaurants and cafes
- Sewerage systems
- Signage
- Water recreation structures.

On land zoned RE1 all other development is prohibited, subject to State and Regional Environmental Planning Policies that apply to this land.

### Zone RU1 Primary Production

The objectives of the RU1 – Primary Production:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the visual amenity and landscape quality of Mid-Western Regional by preserving the area's open rural landscapes and environmental and cultural heritage values.





- To promote the unique rural character of Mid-Western Regional and facilitate a variety of tourist land uses.

On land zoned RU1, the following activities are permitted without consent.

- Environmental protection works
- Extensive agriculture
- Home businesses
- Home occupations
- Intensive plant agriculture
- Roads
- Water reticulation systems.

On land zoned RU1, the following activities are permitted with consent:

- Building identification signs
- Business identification signs
- Cellar door premises
- Dwelling houses
- Extractive industries
- Farm buildings
- Home industries
- Intensive livestock agriculture
- Landscaping material supplies
- Markets
- Open-cut mining
- Plant nurseries
- Restaurants and cafes
- Roadside stalls
- Other developments.

On land zoned RU1 all other development is prohibited, subject to State and Regional Environmental Planning Policies that apply to this land.

#### Zone SP2 Infrastructure

The objectives of the SP2 –Infrastructure are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To protect the water storage of Windamere and Burrendong Dams.

On land zoned SP2, the following activities are permitted without consent.

- Extensive agriculture
- Roads
- Water reticulation systems.

On land zoned SP2, the following activities are permitted with consent:

- Aquaculture
- Water Supply Systems (specific for this land) and any development that is incidental and ancillary to Water supply systems.



On land zoned SP2 all other development is prohibited, subject to State and Regional Environmental Planning Policies that apply to this land.

#### 4.3 Native Vegetation

Land at the Park zoned RE1 and SP2 is covered by the State Government's native vegetation laws aimed at protecting the biodiversity values of trees and other vegetation in non-rural areas of NSW, and is included within the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*<sup>8</sup> and also considered within the *Biodiversity Conservation Act 2016*. Any clearing of native vegetation requires consideration and possible authorisation under these policies.

Where clearing of native vegetation on land zoned RU1 is required, the Crown Land Manager (CLM) may apply to the relevant Local Lands Services (LLS) region for either development consent or approval of a Property Vegetation Plan (PVP). A PVP is a voluntary but binding agreement with an LLS that nominates and approves clearing and also incorporates positive land management requirements. The CLM should consult the relevant LLS to determine which process is best suited to the reserved land, and the process to obtain approval. Before a PVP can be approved by an LLS, written consent from the department is required.

Similarly, all land at the Park is covered by *State Environmental Policy (Koala Habitat Protection)* (See 4.4).

#### 4.4 Biodiversity

Under the LGA, Council has obligations for conservation issues as determined by the *Biodiversity Conservation Act 2016*, and the *Fisheries Management Act 1994*. The LEP notes that there are no significant biodiversity issues present or critical habitat notified at the Park. There is no biodiversity certified land or biobanking agreement associated with this land as per the *Biodiversity Conservation Act 2016*.

#### 4.5 Bush Fire Planning

The LEP indicates that the Park is impacted by bushfire prone land (Vegetation Category 2) as shown on the Mid-Western Regional LGA Bushfire Prone Land Map (Figure 5). The NSW Rural Fire Service Guide for Bushfire Prone Land<sup>9</sup> enables the following definition for bushfire prone land at the Park being Vegetation Category 2.

The partially cleared mid-slopes of the Park are considered to be a lower bush fire risk than Category 1. The mapped Category 2 land on the Park will be given a 30 metre buffer. This vegetation category has lower combustibility and/or limited potential fire size due to the vegetation area shape and size, land geography and management practices.

<sup>8</sup> Part 1 S. (1) (b) of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

<sup>9</sup> Guide for Bushfire Prone Land Mapping: Version 5b (*NSW Rural Fire Service 2015*).

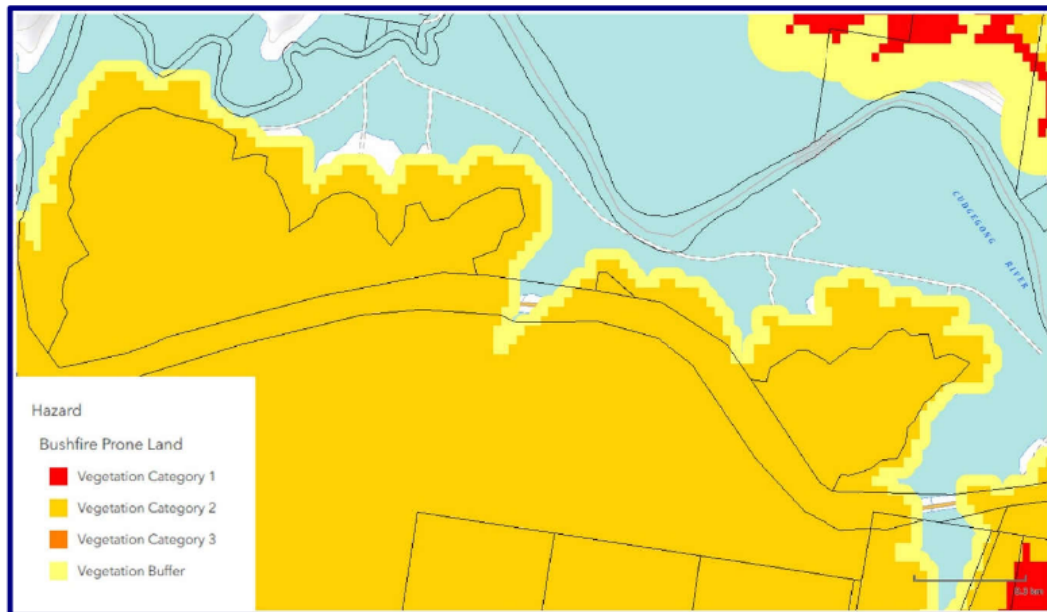


Figure 5 – Vegetation Category for Bushfire Control

Any development application for new works will require assessment in accordance with 79C and 79BA of the *Environmental Planning and Assessment Act 1979* or referral to the NSW Rural Fire Service in accordance with section 91 of the *Environmental Planning and Assessment Act 1979* as a Special Fire Protection Purpose. All development is required to comply with the provisions of “Planning for Bushfire Protection”, prepared by the NSW Rural Fire Service<sup>10</sup>.

#### 4.6 Flood Planning

The land occupied by the Park is not within the Flood Risk Precincts identified by the Mudgee Floodplain Management Study. The provisions of the Floodplain Management Plan may also apply to land that is affected by localised flooding.

#### 4.7 Groundwater Vulnerability

The objectives of this clause are as follows:

- to maintain the hydrological functions of key groundwater systems
- to protect vulnerable groundwater resources from depletion and contamination as a result of development.

The LEP indicates that the Park is located within the Groundwater Vulnerability Map.

For proposals which if approved will access groundwater, the consent authority is required to ensure impacts such as contamination or others, are not caused by such development.

<sup>10</sup> [www.rfs.nsw.gov.au/plan-and-prepare/](http://www.rfs.nsw.gov.au/plan-and-prepare/)



#### 4.8 Aboriginal Significance

A search of the NSW Government's Office of Environment and Heritage AHIMS Web Services did not reveal that:

- aboriginal sites are recorded in or near the Park (1km buffer)
- aboriginal places have been declared in or near the Park (1 km buffer).

The Park does not contain any items listed in the LEP as being of known aboriginal archaeological sites, nor places of indigenous heritage significance.

#### 4.9 Heritage Significance

According to the LEP, the Park is not within a Heritage Conservation Area, nor do areas of Environmental Heritage exist.

#### 4.10 Council Policies

In addition to State planning policies and the directions of the LEP, Council has developed a number of plans and general policies which have either direct or indirect relevance to planning, management and maintenance of community land and Council reserves and, more specifically, the Park. Of particular relevance to the Park:

- ***Towards 2030*** – Endorsing Council's vision of "A prosperous and progressive community we call home", the strategy present goals, values, aspirations and a sustainable community. It is structured around a number of themes including: Looking After our Community; Protecting our Natural Environment; and Building a Strong Local Economy.
- ***Open Space and Recreational Assets Management Plan – Towards 2030 (May 2017)*** – By making available open space and recreational infrastructure for residents and visitors, Council projects budgets and expenditure to operate, maintain and upgrade facilities ensuring good functionality over a ten-year period.
- ***Recreational Strategy (2013)*** – Provides direction to Council and the community about the priorities for planning and development of recreational opportunities and facilities over the following 10-15 years. Although the Strategy tends to concentrate on town-based sporting facilities, Windamere Dam is acknowledged as an important Natural Area. The need for interpretational signage in these areas was decided, as was the importance of establishing picnic areas including seating, walking and mountain biking in natural areas.
- ***Community Grants Program (February 2021)*** - Establishes criteria by which financial assistance requests from non-for-profit groups will be determined with equity.
- ***Long Term Financial Plan 2019 – 29*** – Provides a framework to assist future decision making that will secure economic sustainability and ensure funding is adequate to achieve outcomes the community requires. The Plan is an integral component for the achievement of Council's *Mid-Western Regional Community Strategy Plan Towards 2030*.



- **Leases and Licences of Council Owned and Managed Land and Real Property Policy (2021)** - Enables Council to consider applications for the leasing and licencing of Council controlled land assets, including Crown Land whilst ensuring Council is consistent and transparent, and complying with appropriate legislative requirements when determining each application.
- **Parks Usage Policy (2019)** - Applies to all Council managed parks and sports fields and ensures parks are appropriately booked and used to avoid unnecessary excessive and costly damage due to misuse. It applies to a person or persons wishing to organise a passive or active activity within a park or sports field, erect any form of infrastructure (eg. marquee, temporary lighting, sun shelters etc.) or organise an activity for commercial or promotional purposes.
- **Assets Management Policy (2017)** - Council is committed to a systematic asset management methodology to ensure appropriate asset management practices are applied across infrastructure managed by Council. The Policy ensures assets are planned, created, operated, maintained, renewed and disposed of in accordance with Council's priority of service delivery at the lowest life cycle cost.
- **Information and Direction Signage Policy (2012)** – Provides a standard for consistent, professional and durable signage throughout the region to promote the region, enhancing visitors' ability to navigate the region using consistent directional signage to genuine tourist destinations.

This PoM draws on the information and direction of these policies and strategies.



## 5 THE PHYSICAL ENVIRONMENT

### 5.1 Topography, Hydrology and Drainage

Located between 550 and 595 m above sea level, the Park is positioned on the southern boundaries of the Windamere Dam, with a northerly aspect. It consists of a series of undulating to rolling low hills which range in slope from 2 - 3% on the foot-slopes and side-slopes to 45% at the steepest points. This provides the Park with spectacular views across the Cudgegong Valley (see Figure 6).

The landscape is not strongly dissected by creeks and gullies, although the Cudgegong Creek is located near its north-western boundary before it runs into the water body of the Windamere Lake, while Oaky Creek is just to the east of that boundary, also running north. Some un-named tributary drainage lines exist between the two mentioned creeks which dissect the Park.

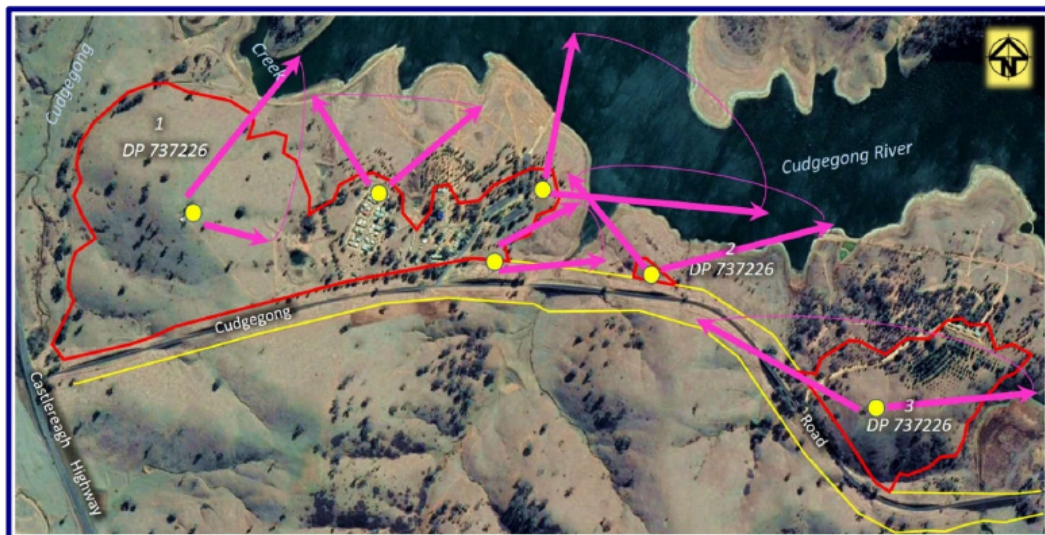


Figure 6 – View Locations

On the Park, several tributary drainage lines have been used for capturing runoff from the slopes providing a water source, complementing the on-site water treatment works, providing for land management maintenance, and fire management (Figures 7 and 8). This is facilitated by the constructions of several large graded banks in key positions, also protecting infrastructure (roads etc.) and confining flow and assigning it to the small dams within the drainage lines.



**Figure 7 – Aerial View of the Holiday Park area**  
Shows the topography of rounded hills of lower, mid and upper slopes. Also shown are a number of water retention works (dams) constructed for purpose within a series of tributary drainage lines. The upper reaches of Cudgegong Creek can be seen in the distant top right.



**Figure 8 – Topography, Hydrology and Drainage**  
Diversion banks and small dams used for runoff management and supplying essential services at Cudgegong Waters Park.



## 5.2 Geology and Soils

The Park lies within the north eastern margins of the Lachlan Fold Belt, a significant geological subdivision of the east part of Australia. It is a zone of folded and faulted rocks of similar age dominating New South Wales and formed in the Middle Paleozoic (450 to 340 million years ago) now characterised by extreme faulting of what are mainly sandstones, shales and chert with some volcanics. The eastern section of the Park is within the Toolamanang Formation, whilst a fault-line separates it from the Roxburgh Formation towards the eastern sections, where the rock structures show stronger signs of folding, compression and distortion<sup>11</sup>. Conglomerates and limestones may also be present.

Strong geological erosion and colluviation has created the current landscape at the Park, as well as a range of soils which belong to the *Buckaroo Soil Landscape*<sup>12</sup>. Shallow stony texture contrast sandy loam brown soils occurring on the mid-slopes, grading into shallow and gravelly loamy soils with nil or minimal subsoil formation on the upper slopes. On the lower slopes and foot-slopes (towards TWL) soil formation has been more complete due to both depth of weathering and colluviation. These slopes carry texture contrast soil profiles with clay subsoils (reddish to yellowish) extend from one to several metres depth, before encountering parent rock of well fractured metamorphosed sediments (Figure 9).

Most soils have hard-setting surfaces, and are slightly acid at the surface (Ph 5.5-6.0), while the subsoils where present merge towards neutral to slightly alkaline trends (Ph 7-7.5) especially where they may be influenced by limestone outcrops. The soils present, range from infertile to moderately fertile, are reasonably well drained, and have a high erosion hazard when exposed/disturbed.



**Figure 9 – Geology and Soils at Cudgegong Waters Park**  
*Weathering rock structures showing strongly dipping metasediment beds, well weathered and fractured, producing shallow skeletal soils on the upper slopes, to a range of texture contrast soils with reddish – yellowish clay subsoils on the mid or lower slopes. All soils tend to be gravelly and of low to moderate agricultural capability.*

<sup>11</sup> Geological Field Guide to the Cudgegong -Rylstone-Area, Lachlan Fold Belt (1994): G. Colquhoun, J. Pemberton, T. Wright  
Department of Geology, University of Wollongong.

<sup>12</sup> Espade; Office of Environment and Heritage: [www.environment.nsw.gov.au/eSpadeWebapp//Soil Landscapes of Central and Eastern NSW](http://www.environment.nsw.gov.au/eSpadeWebapp//Soil%20Landscapes%20of%20Central%20and%20Eastern%20NSW).





### 5.3 Vegetation and Habitat

The native vegetation in the Cudgegong Valley land unit occurs as dry sclerophyll woodland with native and naturalised grass understorey. The canopy is dominated by varying combinations of inland scribbly gum (*Eucalyptus rossii*), grey gum (*Eucalyptus punctata*) and narrow-leaved stringybark (*E. sparsifolia*) on the mid-slopes. The foot-slopes carry a taller forest that has a mixed combination of eucalypts, including rough-barked apple (*Angophora floribunda*), Sydney peppermint (*E. piperita*), grey gum (*E. punctata*), scattered ribbon gum (*E. viminalis*) and Blakely’s red gum (*E. blakelyi*) in depressions<sup>13</sup>.

However, the native vegetation at the Park has been modified by land management practices including clearing to the extent that it is now considered to represent a *derived* distribution, which is no longer well-structured or intact<sup>14</sup>. Lot 1 has been significantly cleared of woody vegetation in the past, although re-plantings for shade and aesthetics have occurred around the main holiday park area, access tracks and fence lines. There is more natural regrowth occurring on Lot 3, but the area is mostly devoid of well-structured open woodland, the exception being patches near the entrance to that lot, along the access track and in front of and behind the facilities that have been created there. Significant attempts to re-establish native and non-native trees and shrubs have been successful in parts.

Within the Park, Lot 3 currently offers the highest potential for valuable habitat for native species of birds, marsupials, and reptiles.



Figure 10 – Vegetation and Habitat  
 Mature Eucalypts along entrance drive into Lot 3; planted Eucalypts and introduced pines on the contour, Lot 3.

<sup>13</sup> The Native Vegetation of North-West Wollemi National Park and Surrounds including Nullo Mountain, Coricudgy and Cudgegong Areas, Version 1 (2012). Office of Environment and Heritage, NSW National Parks and Wildlife Service NSW Government.

<sup>14</sup> [www.epa.nsw.gov.au/state-of-the-environment/native-vegetation](http://www.epa.nsw.gov.au/state-of-the-environment/native-vegetation).



**Figure 11 – Vegetation and Habitat**  
*Planting trees creates shade and improves aesthetics around camping grounds Lot 3.*



**Figure 12 – Vegetation and Habitat**  
*Planted native shrubs above amenities area, Lot 3.*



**Figure 13 – Vegetation and Habitat**  
*Top, pattern of tree planting of native and introduced species, Lot 3; Left and Right, wildlife enjoying re-creation of habitat through native tree plantings and regrowth, Lot 3.*

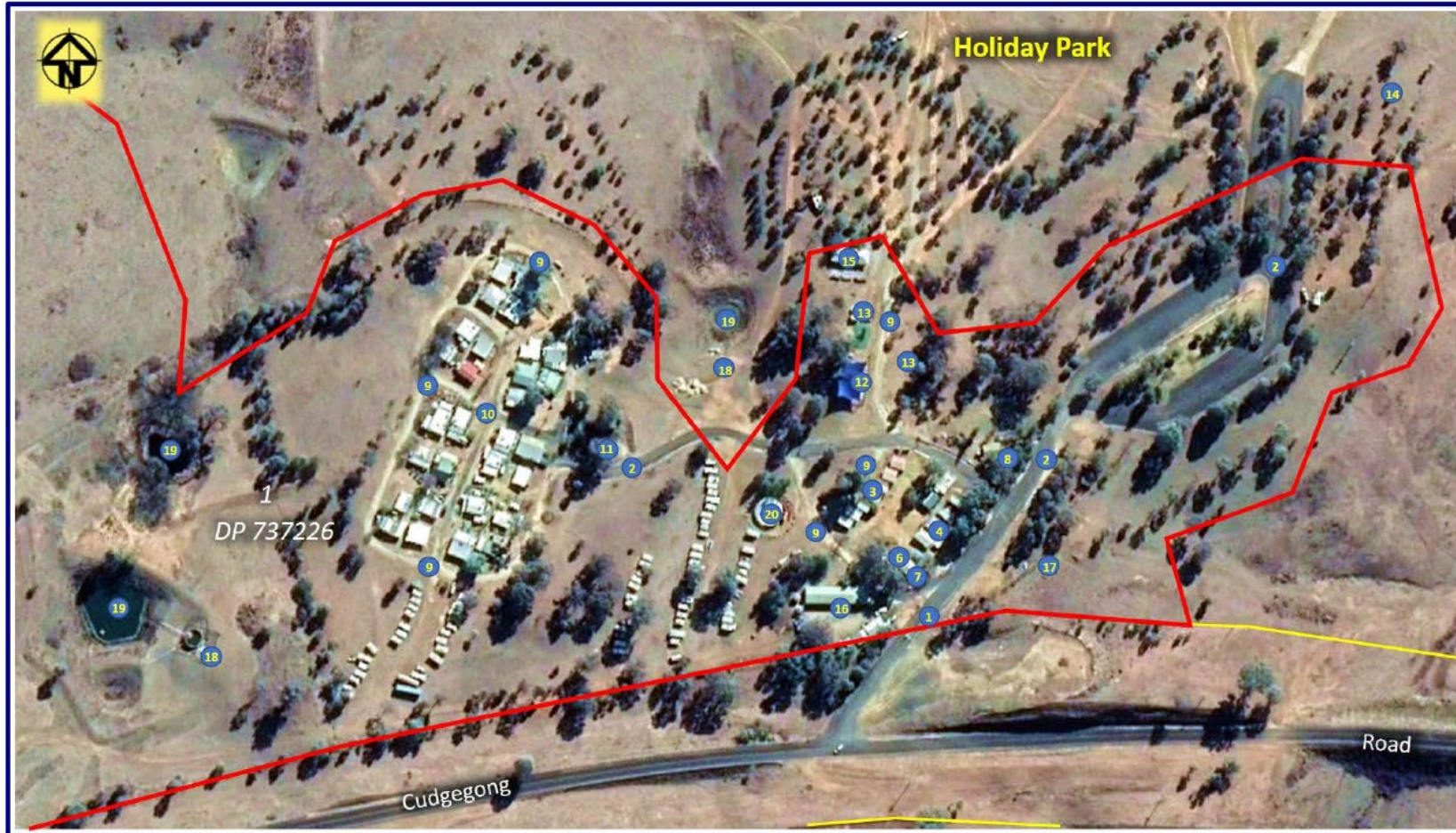


Figure 14 – Assets Holiday Park and adjoining land



Figure 15 – Assets Cudgegong Waters Park



## 6 CUDGONG WATERS PARK CONDITION ASSET ASSESSMENT

### 6.1 Assets

The major assets at the Park occur on and in conjunction with the main holiday park grounds on Lot 1 (see Figure 3). These are the built assets of residence, store, administration, cabins<sup>15</sup>, road network for Park user access, including long-term site residences<sup>16</sup>, serviced camp sites, amenities, water supply and required fire mitigation measures etc. Lot 3 contains a limited range of basic items of infrastructure which service the needs of basic campers at that site. There are no significant assets on the small Lot 2.

All assets at the Park have been inspected and recorded (see Table 1 and Figures 14 and 15), including a preliminary assessment of asset condition.

**Table 1 – Condition of Land and Buildings**

No	Asset	Condition
Apparent condition: <b>G</b> = Good; <b>F</b> = Fair; <b>P</b> = Poor <b>O</b> = Unusable; <b>R</b> = Requires Maintenance		
<b>Lot 1</b>		
1	Main entrance gate and signage	F
2	Sealed main internal roads	F
3	Cabins (sites 55-61) (Appendix 3)	F/P
4	Cabins (site 30-37) (Appendix 3)	F/P
6	Residence	P/R
7	Office	P/R
8	Amenities 1	F/P/R
9	Gravel service roads including around long-term sites (see layout Appendix 4) and Cabins 55 - 61	P/R
10	Sealed service roads	F/G
11	Men's and ladies' amenities, long-term sites	O
12	Playground	G
13	BBQs and seating	F/G
14	Water supply treatment works (new)	G
15	Amenities 2 (new)	G
16	Work shed and yard	F/R
17	Fish cleaning table	O/R
18	Water Drainage Treatment Plant	G
19	Dam	G
20	Water Storage	G
	Fire hydrant system (new) (Appendix 5)	G
	Water supply	G
	Power installations	G
	Fencing	G
<b>Lot 3</b>		
22	Entrance gate and signage	G
23	All weather access road	G
24	Amenities, storage sheds etc.	F
25	Clubhouse	F

<sup>15</sup> Cabins 30-37, and 55-61 - See layout Appendix 3.

<sup>16</sup> Holiday van sites (29) are considered private assets and not considered as Park asset – see layout Appendix 5.



No	Asset	Condition
26	Tree establishment	F/R
	Fencing	G

Figures 16-22 depict a range of assets across the Park.



**Figure 16** – Assets Holiday Park

Top LHS clockwise: Entrance boom gate and signage; cabins (30-37); Older amenities block; Residence / administration / store. Lot 1.



**Figure 17** – Assets Holiday Park Internal Roads

Top LHS clockwise: Road connections long-term site residents; masonry drainage; curbed and sealed roadways. Lot 1.



**Figure 18** – Assets Holiday Park Recreation Area  
Top LHS clockwise: New amenities block; children’s playground; BBQ area; bench seating, shade.

Some major items of key infrastructure have recently been upgraded at Lot 1, including the required fire hydrant network and water supply, and the grey water treatment plant. These are major capital items and will see the needs of the Holiday Park (Lot 1) well into the future.



**Figure 19** – Assets Holiday Park: Water Infrastructure  
Top LHS clockwise: Water treatment plant; fire hydrant.





**Figure 80** – Assets Holiday Park  
Left: Fish-cleaning table; boat ramp below main camping ground (outside Lot 1).



**Figure 21** – Assets Anglers Club  
Top LHS clockwise: Entrance gate and signage; all-weather access road; Clubhouse; Amenities/sheds. Lot 3.



**Figure 22** – Assets Encroaching on State Water Land

Top LHS clockwise: Water Supply Treatment Plant, Dam and Water Drainage Treatment Plant, Dual road to boat ramp and access road to Long-term site section.



## 6.2 Manager and User Assessment

Consultation for the preparation of this PoM was undertaken with:

- Council officers with executive and operational management responsibilities for the Park.
- The licensee and current manager of the Holiday Park.
- The licensee of the grazing area of Lot 1.
- The Chairperson of the Rylstone Anglers Club.
- Site holders of long-term sites and users of short-term and camping sites at the Holiday Park.
- Users of the Anglers Club camping area.

The significant issues raised during this consultation and from site investigation were:

- The requirement that the PoM addresses growth, increased visitations, and enduring financial sustainability.
- The Holiday Park and the grazing area to the north are a significant asset capable of being a significant tourism drawcard for the Region.
- The Holiday Park is fully utilised in some periods and underutilised in other periods. The introduction of a greater variety of activities and accommodation grades and styles is likely to generate greater utilisation. However, this should not be undertaken at the expense of existing users.
- The significant improvements to the Holiday Park that have recently been undertaken including new amenities facilities and water treatment plant and reticulation.
- The entry statement to the Holiday Park, both along Cudgegong Road and at the actual entry is not appealing with:
  - the decrepit nature of vans in storage areas and the rubbish behind the maintenance depot.
  - Council storage of road materials at the entrance.
  - Dated signage at the entrance.
- Facilities require further improvement including:
  - the existing managers cottage requires replacement.
  - roads in the long-term site area need to be made all weather.
  - the old amenities needs to be either replaced or updated.



- The topography of the Park is constraining, however, opportunities exist on:
  - the edges of the Park for expansion
  - the Castlereagh Highway and Cudgegong Road for promotion of the Park.
- The occupation of neighbouring State Water land by the Holiday Park will require formalisation.
- The vistas available across Windemere Dam are magnificent, however not fully taken advantage of.
- The facilities constructed and maintained under licence to the Anglers Club appear to be well maintained.
- An acknowledgement of the natural values of the vicinity, and their sustainable utilisation by all visitors.



## 7 CURRENT USES

### 7.1 Client Recreational Users

#### Short term camping, casual visitations

The Holiday Park provides for short-term stays for visitors with an interest in water sports, fishing, camping, recreational walking or simply relaxing and socialising. Visitors can either use the cabins available on-site or be self-contained using their own accommodation - either tents, vans etc. with the “great outdoors experience” in mind. The current approval to operate a caravan park and camping area permits 30 short-term sites and 30 camping sites.

The Lake is well stocked with fish from a range of species and fishing competitions and peak times such as Easter, attract large crowds and participation.

The Holiday Park also provides for day access to Windamere Dam.

#### Long term site accommodation

The Holiday Park currently provides 29 powered sites for long-term site occupiers. The current approval to operate a caravan park and camping area permits 29 long-term sites.



**Figure 23 – Recreational Uses**  
*Activities at Cudgegong Waters Park – fishing, boating, camping.*

### 7.2 Other Uses

The Holiday Park manager runs a van storage area in two sections of the Holiday Park. The Park is also used for Anglers’ club facilities, bush regeneration and grazing.



### 7.3 Existing Interests and Tenures

At the Park, licences and other agreements have been issued being:

- A licence for Caravan Park & Recreational Purposes for a term of 10 years (expiring 16 December 2023) to MA & DFL Rodgers over Part Lot 1 DP 737226 and Lot 2 DP 737226. This licence provides for the day-to-day management of the Holiday Park.
- A licence for Grazing (expiring 30 December 2022) to MA & DFL Rodgers over Part Lot 1 DP 737226. This licence provides for the occupation of the part of Lot 1 not currently utilised for the Holiday Park.
- A licence for Recreation – Day camping, private camping ground and access to Windamere Dam for fishing and boating activities (expiring 30 June 2024) to Rylstone Kandos Anglers Club INC over Lot 3 DP 737226.
- Long-term site agreements.
- Storage agreements.

### 7.4 Land Status

The Holiday Park has the following assets (see Figure 22) which are not within the Reserve Boundaries:

- Water supply treatment works
- Water Drainage Treatment system
- Road linking long-term sites to main park.



## PART B – THE PLAN

### 8 A VISION FOR THE LAND

In its Economic Development Strategy, Mid-Western Council presents its Vision for the region as:

***"A prosperous and progressive community that we are proud to call home"<sup>17</sup>***

The statement is a reflection of Council's broad strategic intent and highlights fulfillment in a community moving forwards whilst creating opportunity. It therefore encompasses the way community lands are shared and used by people in the creation and maintenance of that prosperous environment.

A vision statement developed for a former (1999) Plan of Management for the Park (inclusive of Lots 1, 2 and 3)<sup>18</sup> was:

***"To undertake ecologically sustainable development of the Reserve to provide a wide range of environmentally sensitive recreational opportunities and experiences for all visitors to the Reserve within the capability of the Reserve to provide such facilities as are appropriate, while conserving where possible, the natural and scenic features of the Reserve, and integrating the Reserve management within adjacent environs."***

This earlier Plan of Management responds to the objects and principles of the former *Crown Lands Act 1989* (now *Crown Lands Management Act 2016*). Subsequent changes in legislation requires that the PoM described in this document, categorises the subject land, then directs its management in accordance with the prescribed objectives for those categories (see Section 9).

Given the new legislative framework for the management of the Park, its various developments and its current and likely use patterns into the future, the following vision statement is proposed:

***"A regional recreation destination where the community can enjoy the Cudgegong's natural assets".***

<sup>17</sup> Economic Development Strategy of Mid-Western Regional Council – A 10 Year Plan. *Mid-Western Regional Council*

<sup>18</sup> Plan of Management for Cudgegong Waters Park. *K. Richardson and Associates Pty Ltd 1999.*



## 9 OBJECTIVES, CLASSIFICATION AND CATEGORY OF LAND

The Park is classified as community land under the *LGA* as amended by the *Local Government Amendment (Community Land Management) Act 1998*.

Under Section 36(4), all community land must be categorised as one of the following categories:

- Natural Area - (further categorised as either Bushland, Wetland, Escarpment, Foreshore, Watercourse)
- Sportsground
- Park
- Area of Cultural Significance; or
- General Community Use.

The Core Objectives for all community land categories vary according to the categorisation of the land. All objectives are defined in Sections 36E through to 36N of the *LGA* and also appear in Appendix 1 of this PoM.

It is considered that in accordance with the guidelines set out in the *Local Government (General) Regulation 2021* and Practice Note 1: Public Land Management (Department of Local Government Amended 2000), and consistent with respective core objectives, land at the Park under this PoM is categorised as:

- **Natural Area - Bushland**
- **General Community Use**

Figure 24 shows the location of land categories across the Park.





Figure 24 – Land Category



### 9.1 Natural Area - Bushland

The core objectives for management of community land categorised as a **Natural Area** are:

- to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- to maintain the land, or that feature or habitat, in its natural state and setting, and
- to provide for the restoration and regeneration of the land, and
- to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a Recovery Plan or Threat Abatement Plan prepared under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*.

The core objectives for management of community land further categorised as **Bushland** are:

- to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and
- to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- to restore degraded bushland, and
- to protect existing landforms such as natural drainage lines, watercourses and foreshores, and
- to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- to protect bushland as a natural stabiliser of the soil surface.

#### Description and Location

The area categorised as Natural Area – Bushland occurs across the bulk of the area under licence to The Anglers Club, on Lot 3 (excluding areas which have been improved by the Fishing Club - amenities, clubhouse etc.) and the whole of Lot 2. Overall, it occupies the undeveloped area - essentially the area of native and naturalised grassland, and native woody vegetation on the undeveloped slopes above TWL. As much of the area has been previously cleared of native woody vegetation there has been a program on Lot 3 to re-establish many native tree and shrub species.



### Management Objective

The area categorised as Natural Area – Bushland will be managed to maintain and improve its environmental values consistent with legislative requirements and as an environmental buffer to additional development of the Reserve. Invasive woody weeds are present (eg. Blackberry), which will require management. Maintaining an effective age distribution of the woody (tree) component in conjunction with a well-established understory of native shrubs will enrich existing habitat values. A continuation of tree re-establishment (eg. on Lot 3) is recommended. All environmental values (such as tree management) will require care and consideration in accordance with policy and legislation.

Bushfire management of excessive dry vegetation will be an issue for routine management, especially in relation to adjoining facilities, infrastructure and human safety.

Provision for passive access by the public, respecting the exclusivity of the nearby amenities (eg. those created by the Anglers Club), is a requirement of the legislation as well as the conditions of tenure.

## 9.2 General Community Use

Relevant Core Objectives for management of community land categorised as **General Community Use** are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

### Description and Location

The General Community Use area has a strong multi-purpose function and meets the physical, cultural and intellectual needs of the community, whilst also attracting and supporting activities which have a capacity for significant commercial return. It includes:

- Lot 1 with the established Holiday Park and its assets - the major facility of the Park - and the tenured grazing land part of which can be considered potential overflow for camping, and,
- Part of Lot 3 which includes the amenities of the Anglers Club, excluding the area categorised as Bushland.

### Management Objective

The area identified as General Community Use (excluding the Holiday Park) will be managed to encourage free and unrestricted access for casual use including walking and exercising, picnicking and general short-term visits. The Holiday Park will provide access to authorised and/or paying visitors for use of built infrastructure and amenities, such as boat ramps, toilets, camping sites, cabins and long-term site dwellings.



The growing of the commercial aspects of the business and its accompanying required infrastructure will be a priority (in particular the recreational touring business). There will be an ongoing need to also address issues associated with aging infrastructure in many cases. Current limitations to allocated camp sites, amenities, storage of equipment including abandoned or partially used camping vans and vehicles will require continued management. Managing sites and services during peak usage times will also be a priority, as will improvements to site maintenance (internal roads etc.) and maintenance of visual amenities.

New commercial developments including new cabins and camp sites at the main Holiday Park, will be part of a Revised Business Plan, as will the relocation and enhancement of the current store and café.

Where present, environmental values will require management in accordance with policy and legislation.



## 10 MANAGEMENT AND DEVELOPMENT OF THE CUDGEGONG WATERS PARK

### 10.1 Reserve Management

Council reserves the right to control the use of the community land including the Park.

Council intends to:

- Create opportunities for community consultation and participation in the planning and development as required.
- Provide an efficient method and process for approval of all agreed improvements and developments.
- Consider access to recreational facilities for users and allow casual informal use consistent with Council's policies and procedures.
- Ensure all formal uses of the Park are authorised through appropriate documentation.
- Consider how use of the site can provide funding for the maintenance of the facilities for the Park.
- Recognise that the ongoing viability of the Park is dependent on meeting the needs of new and existing users.
- Facilitate a system whereby enquiries and complaints from the public can be efficiently and promptly dealt with.

Council will issue leases and licences as described in Section 10.3

#### Management

Council will manage the Park consistent with this PoM, in accordance with its charter.

Council is responsible for the care, control and management of the Park using its powers for the proper pursuit of its objects. These are to:

- Determine and allocate the use of the facilities contained in the Park by tenure holders, hirers and casual users.
- Determine the use of the Park in accordance with written applications, and consultation with impacted holders and hirers.
- Collect fees for the use of the Park<sup>19</sup>. Fees set by Council will form part of the income of the Park.
- Be responsible for the maintenance and repair of the facilities<sup>20</sup>.

<sup>19</sup> Council may permit tenure holders to collect fees as part of the tenure conditions.

<sup>20</sup> Fee collection and maintenance responsibilities may delegate to tenure holder through conditions.



- Ensure the Park is maintained to a presentable standard.

## 10.2 Permitted Uses and Activities

The Park allows free and unrestricted access for non-paying casual users/visitors for informal use by access to areas designated not to conflict with those areas used by clients.

### Permissible Uses

Table 2 lists the permissible uses of the land to which this POM applies, subject to Council assessment, approvals and booking/hire systems, together with their scale and intensity and the land category the permissible use relates to.

*Table 2 – Permissible Uses*

Use	Scale	Intensity	Permissible Category
Access roads	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week	All
Amenities	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week	GCU
Alternate energy technology	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	All
Art and cultural classes and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	7 days a week, 10.00am – 10.00pm subject to tenure or hire agreement	All
Camping and caravanning	Limited to the locations specified in the approval to operate by Council	24 hours a day, 7 days a week subject to hire agreement	GCU
Café /Kiosk	Limited to the hours the facility is booked. Agreement via tenure or hire agreement	Operating hours subject to tenure	GCU
Car parking	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week	All
Casual playing of games or informal sporting activities	Limited to the physical constraints of the facility	7 days a week, 8.00am – sunset	All
Children’s programs and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	8.00am – 10.00 pm, 7 days a week subject to tenure or hire agreement	All
Community events (fundraising/charity events, special events)	Limited to the hours the facility is booked. Agreement via tenure or hire agreement	7 days a week, 8.00am – 10.00pm	All
Drainage and irrigation	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	GCU
Emergency use	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week	All
Filming and photography (commercial, amateur)	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week subject to tenure	All



Use	Scale	Intensity	Permissible Category
Fitness and wellbeing programs	Limited to the physical constraints of the facility and/or to the requirements of the activity	7 days a week, sunrise - sunset	All
Landscaping	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	GCU
Maintenance buildings	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	All
Marquees, tents, stages and jumping castles	Limited to the physical constraints of the facility	Temporary structures	GCU
Mobile food vendors	Limited to the physical constraints of the facility	Operating hours subject to tenure or hire agreement	GCU
Outdoor film screening	Limited to the physical constraints of the facility	Operating hours subject to tenure or hire agreement	GCU
Passive recreation	Limited to the physical constraints of the facility and/or to the requirements of the activity	7 days a week, sunrise – 10.00pm	All
Paths	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	All
Personal training	Non-exclusive use - up of 6-18 people maximum	7 days a week, sunrise – sunset subject to tenure or hire agreement	All
Public performance or education	Limited to the physical constraints of the facility and/or to the requirements of the activity	7 days a week, 10.00am – 10.00pm subject to tenure or hire agreement	All
Public utility infrastructure	Limited to the physical constraints of the facility	24 hours a day, 7 days a week	All
Remediation works	Subject to noise, workplace health and safety and relevant legislation	24 hours a day, 7 days a week	All
Shade structures	Limited to the physical constraints of the facility and/or to the requirements of the activity	24 hours a day, 7 days a week	GCU
Sponsorship signage (temporary)	As per section 10.10	24 hours a day, 7 days a week	All
Storage facilities	Limited to the physical constraints of the facility	24 hours a day, 7 days a week subject to tenure or hire agreement	GCU
Telecommunication facilities	Subject to relevant legislation	24 hours a day, 7 days a week	All
Youth programs and events	Limited to the physical constraints of the facility and/or to the requirements of the activity	8.00am – 10.00 pm, 7 days a week subject to tenure or hire agreement	All

It is an express provision of this PoM that Council shall provide from time to time as circumstances may require the construction and maintenance of utility services, provision and maintenance of floodways, cycle ways, vehicular access ways and the granting of easements.



### 10.3 Leases, Licences and other Estates

For this section please see the Explanation of Terms<sup>21</sup> set out below.

The *Local Government Act 1993* provides that tenures (leases, licences, or any other estates) or easements may be granted over all or part of community land in accordance with Section 46.

Tenures may be held by:

- community organisations and sporting clubs, or
- by private/commercial organisations or
- individuals providing facilities and/or services for public use.

The maximum period for leases and licences on community land allowable under the *Local Government Act 1993* is 30 years (with the consent of the Minister for a period over 21 years) for purposes consistent with the categorisation and core objectives of the particular area of community land.

Community land may only be leased or licensed for periods of more than 5 years if public notice is given according to the requirements of Sections 47 and 47A of the *Local Government Act 1993*.

#### Leases

A lease will be generally required where exclusive use or control of all or part of community land is desirable for effective management. A lease may also be required when the scale of investment in facilities, the necessity for security measures, or where the relationship between a holder and facilities on community land justifies such security of tenure.

Leases issued by Council will require:

- That subleases or any other supplementary tenures can only be issued by the Holders with the approval of Council, and consistent with Section 47C of the *LGA*.
- Maintenance of the facility will generally be the responsibility of the lessees however this will be defined in the lease agreement.

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#### <sup>21</sup> Explanation of Terms

**Tenure** – A lease, licence or other estate issued by Council in accordance with Section 46 of the *Local Government Act 1993* or Section 2.20 of the *Crown Land Management Act 2016*.

**Hire agreement** – An estate issued by the Holiday Park Operator or Council.

**Holder** – The company, organisation, individual or group of individuals who have been issued with a tenure.

**Hirer** – The company, organisation, individual or group of individuals who have been issued with a hire agreement.

**Regular hirer** – A hirer who regularly uses Cudgegong Waters Park through a hire agreement or has an ongoing hire agreement.

**Singular hirer** – A hirer who has a hire agreement as a once off or irregularly.

**Casual user** – A person or group of people using Cudgegong Waters Park for passive recreation, non-commercial purposes without a tenure or hire agreement.

**User** – The collective term for a holder, hirer and casual user.





### Licences

Licences allow multiple and non-exclusive use of an area. A licence may be required where intermittent or short-term use or control of all or part of the community land is proposed. A number of licences for different holders can apply to the same area at the same time, provided there is no conflict of interest.

### Hire Agreements

An agreement for use of the Cudgegong Water Park or part, may be issued by Council for any purpose listed below. A hire agreement may be issued to a regular hirer or a singular hirer for formal use. Any legal requirements as determined by Council will include the requirement for adequate public liability insurance cover.

The Holiday Park Operator may issue hire agreements in accordance with the tenure.

### Permits

A permit may be issued by Council to undertake a particular activity on community land. Such a permit may or may not attract a fee.

### Purposes for which tenures may be issued

In accordance with Section 46A of the LGA, a Plan of Management for community land is to specify and authorise any purpose for which a lease, licence or other estate may be granted over community land during the life of a Plan of Management.

This PoM authorises a tenure to be issued:

- for any permissible use in Table 2
- for purposes consistent with the Park's:
  - categorisation (see Sections 9.1 and 9.2), and
  - zoning (see Section 4.2) under Section 46 of the LGA, and
  - reserve purpose of Public Recreation as required under the CLMA.

However, the CLMA allows that Council may also issue short term licences (for a period of less than one year) consistent with Section 2.20 of the CLMA<sup>22</sup>. This section provides that licences may be issued, inconsistent with the reservation purpose, for prescribed purposes currently being:

- |  |                                      |
|--|--------------------------------------|
| (a) access through a reserve                   | (d) catering                         |
| (b) advertising                                | (e) community, training or education |
| (c) camping using a tent, caravan or otherwise | (f) emergency occupation             |
|  | (g) entertainment                    |

<sup>22</sup> Crown Land Management Regulation S.31



- |  |   |
|--|---|
| (h) environmental protection, conservation or restoration or environmental studies | (q) meetings  |
| (i) equestrian events  | (r) military exercises                              |
| (j) exhibitions  | (s) mooring of boats to wharves or other structures |
| (k) filming (as defined in the <i>Local Government Act 1993</i> )                  | (t) sales   |
| (l) functions  | (u) shows   |
| (m) grazing  | (v) site investigations                             |
| (n) hiring of equipment  | (w) sporting and organised recreational activities  |
| (o) holiday accommodation  | (x) stabling of horses                              |
| (p) markets  | (y) storage.  |

This PoM expressly authorises<sup>23</sup> the following tenures<sup>24</sup>:

- (a) A lease or licence for the operation of the Holiday Park.
- (b) A lease or licence to the Rylstone Kandos Anglers Club Inc over Lot 3 Club house and revegetation.
- (c) A lease or licence for occupation of the Holiday Park's manager's residence.
- (d) The booking and hiring of camp facilities on the areas designated in this PoM consistent with an operating approval under Section 68 of the LGA.
- (e) Licences for grazing over lots 1 and 3.
- (f) Day use access agreements to Windamere Dam.
- (g) Long-term site agreements.
- (h) A lease or licence for the operation of the café/kiosk.
- (i) Van storage agreements.

Council may grant a lease, licence or other estate in respect of Community Land for:

- A purpose prescribed by Section 36I LGA as a core objective of the categorisation of the land and subject to being consistent with the Reserve purpose; or
- For the provision of goods, services and facilities, and the carrying out of activities, appropriate to the current and future needs within the local community and of the wider public in relation to Public Recreation and Community Purposes.

<sup>23</sup> Express Authorisation in Section 46 (1)(b) of the LGA permits tenures to be granted in accordance with and subject to such provisions of a Plan of Management.

<sup>24</sup> Consider any additional and/or appropriate improvements to conditions issued by Council, by the term end of the following tenures:

- i. Holiday Park (1 July 2024)
- ii. Rylstone/Kandos Anglers Club Inc (1 July 2024)
- iii. Short-term grazing (January 2021 and annual review thereafter).



A tenure or hire agreement on Crown land may impact Native title rights and interests. Apart from the tenures/hire agreements specifically authorised above, which are valid acts under Section 24JA of the *Native Title Act 1993*, any use agreement issued on Crown land must be issued in accordance with the future act provisions of the *Native Title Act 1993* and in accordance with Part 8 of the *Crown Land Management Act 2016* unless Native title is extinguished. For Crown land which is not *excluded land* this will require written advice from one of Council's Native title managers that it complies with any applicable provisions of the Native title legislation.

Council at any time in the future, reserves the right to prohibit the taking or consumption of alcohol on this Reserve. This will be indicated by conspicuously displayed signs in accordance with Section 632 and Section 670 of the *Local Government Act, 1993* (as amended).

#### Direction of Funds

Income produced from the Park will be distributed to and for the management of community lands in the Mid-Western Region Council local government area in a fashion directed by Council.

### 10.4 Other Approvals

An approval to occupy land or facilities for a specific purpose does not remove the need to obtain approval under other legislation. These approvals may include:

- a liquor licence
- engage in a trade or business
- direct or procure a theatrical, musical or other entertainment for the public
- construct a temporary enclosure for the purpose of entertainment
- play a musical instrument or sing for fee or reward
- set up, operate or use a loudspeaker or sound amplifying device
- deliver a public address or hold a religious service or public meeting with the use of a loudspeaker
- install or operate amusement devices
- operate a caravan park or camping ground<sup>25</sup>
- use a standing vehicle or any article for the purpose of selling any article in a public place.

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<sup>25</sup> Approval to operate a caravan park or camping ground is provided by Council under Section 68 of the LGAct consistent with Section 132 of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*.



## 10.5 Allocation

The Park will continue to be used by a variety of users for purposes previously noted. Council and the Holiday Park Operator will endeavor to generate greater utilisation of the Park for recreation and other activities consistent with the Park purpose.

### Single Purpose Facility Use

Use of the Park, for a single specific use, will be allocated by Council by way of a tenure (see 10.3) subject to the provisions of the *Local Government Act*, and consistent with the Core objectives (as described in 9). This will allow the Holder to appropriately plan for the development and maintenance of the facilities that have been constructed for that purpose.

While Council will have a strong oversight role, everyday management of the facilities for that purpose, will be the role of the Holder.

### Shared Facility Use

Any part of the Park not subject to a tenure issued by Council will be managed by Council. This will include those parts of the Park that are used by more than one user or those which are required for general community access.

Council shall manage the use of shared facilities to both Hirers by way of hire agreement and Casual Users in a fair and transparent manner.

Hire fees and rental will be utilised to contribute to the maintenance of the Park and facility upgrade and replacement.

## 10.6 Fees

Council applies fees for the use of Council reserves. All applicable fees must be paid prior to the hire/use of the Park.

The fees associated with the hiring of Council reserves for major events, concerts, functions etc. are detailed in Council's *Operational Plan – Fees and Charges*. Council's fee structure is reviewed on an annual basis.

Where the Park is to be hired for a purpose not within Council's *Operational Plan – Fees and Charges*, the fee will be considered and set by the Council after approval.

## 10.7 Communication in the Management of the Cudgegong Waters Park

Communication between Council, the Holders, Hirers and Casual Users is important to the success of this Plan. Council will establish and maintain clear lines of communication across all Park users, especially relating to the operations of and responsibilities within a (proposed) business model resulting from this PoM. This will include:

- Consolidating the new business model which includes a requirement that occupation, including that



of Lessees, is on the basis of formal agreement.

- Encouraging better use of the Park, by providing clarity to the Community and Users regarding the revised expectations concerning free and unrestricted access for casual use of the General Community Use area. The Council's Notice board and the website will be the vehicle for informing casual users of their rights and responsibilities in utilising the Park.

## 10.8 Easements

Council reserves the right to grant easements as required for utilities and access, bearing in mind the impact of such easements on the site.

The granting of easements over Crown land will be subject to the provisions of the *Native Title Act 1993* and Division 8.7 of the *Crown Land Management Act 2016*.

## 10.9 Development of New and Improvement of Existing Facilities

Council approval is required prior to any development or improvement made to community land.

All major developments and improvements to be funded (solely or partially) by Council will be subject to approval by Council.

Council will encourage community assistance in the development of new facilities as well as maintenance of existing facilities through the co-operation and assistance of the local community.

Future improvements, maintenance and management of Cudgegong Waters Park (see Development Plans Figure 25 and 26) are to include new works listed following.

The initiative addresses the issues condensed from Section 6.2 above, improving Holiday Park utilisation by a non-traditional client base, using a flat building site with good views, and providing a potential significant income stream whilst improving site aesthetics. It also provides an alternative to the need to improve the manager's residence within the current Holiday Park boundary.

### New Works

- Dismantle and replace existing Manager's Residence and position a replacement dwelling to the east of the current entrance as shown on Figure 25.
- Design/construct café/office between the new residence and the entrance road, capitalising on lake views and aspect.
- New landscaping around café / office.
- Demolish and renew amenities block with associated camp kitchen.
- Establish additional powered camp sites opposite current play area.
- Construct modern cabin accommodation (5 units) on the elevated area east of the main



entrance track.

- Complete playground works.
- Relocate the fish cleaning table/area. (Move closer to top water level near boat ramp and provide suitable waste disposal.)
- Allocate future camping area extension into grazing area.
- Create new walking track – “The Cudgegong Track” which links the facilities of Lots 1,2 and 3, capitalising on views and utilising parts of the old Cudgegong Road and existing tracks where available due to seasonal reductions in dam water levels (see Figure 26).
- In conjunction with new walking track:
  - install bench seat in prominent spot at hilltop of grazing area of Lot 1, and at vantage point higher slope of Lot 2.
  - install appropriate fence crossing mechanisms.
- Install signage in accordance with Schedule 1 SEPP 64 and approved by Council (see Section 10.10) which provides for the needs and safety of all park users for:
  - directions to existing and new facilities, pathways etc.
  - instructions (safety, unauthorised areas)
  - promotional (along the Castlereagh Highway and within the Holiday Park)
  - education (interaction with natural values including native vegetation on Lot 3 etc.).

#### Maintenance of existing infrastructure and services

- Rationalise caravan storage area from the current 67, to a manageable number (suggest 25), and proportionally reduce area of existing storage to a single area, which is visually screened from Cudgegong Road and internal roads.
- Tidy work/machinery/workshop by removing excess stored equipment and waste materials from yard.
- Improve internal Holiday Park Road network (re-seal surfaces to all weather and runoff management), especially near entrance and linking long-term site residents.
- Continue to monitor compliance within long-term site residential area in accordance with tenure conditions.
- Carry out essential repairs to amenities, facilities and other major infrastructure as per approved maintenance schedule.

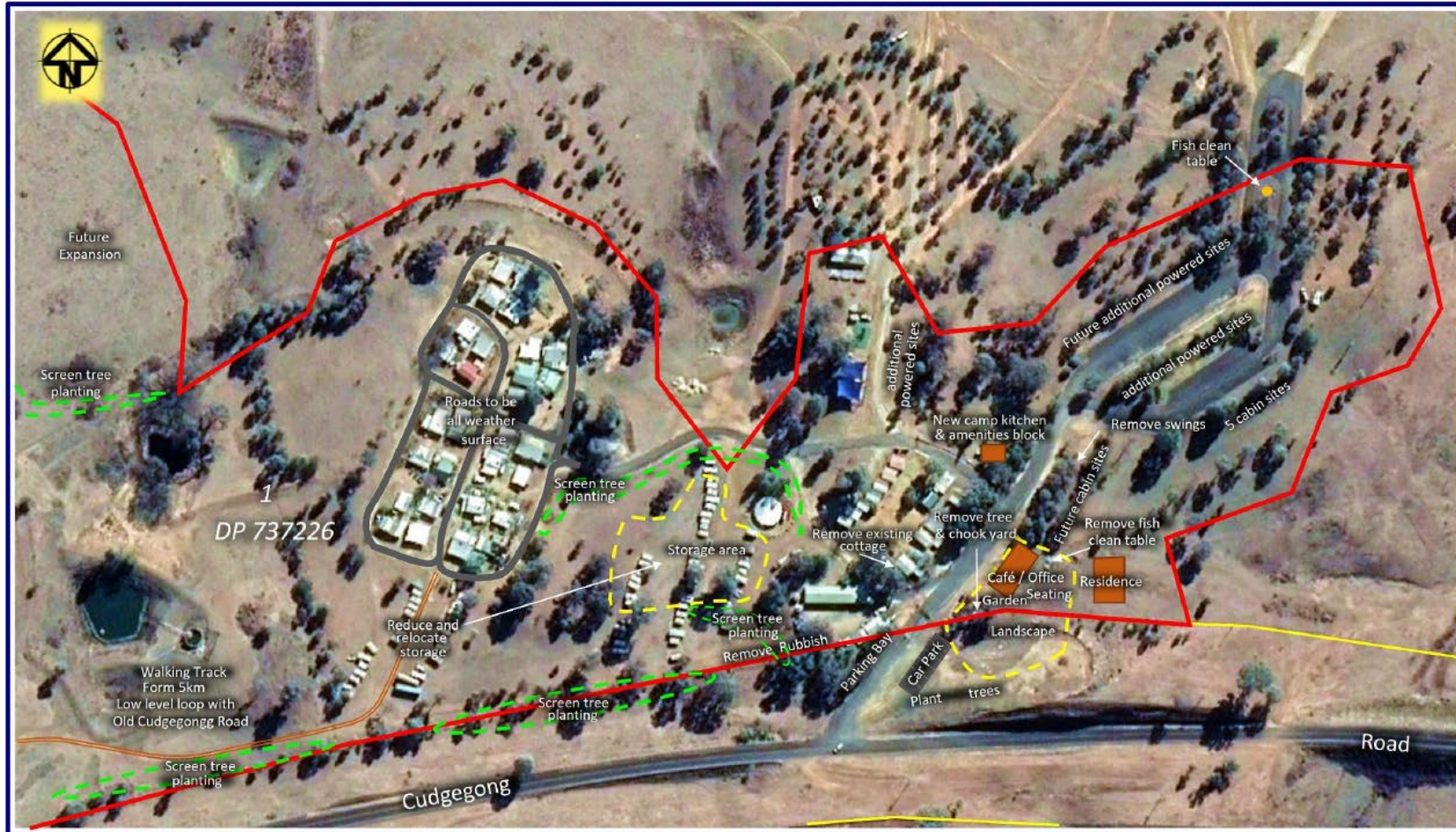


Figure 25 – Future Development Holiday Park  
Proposed new works, and improvement and management of existing facilities and land.



Figure 26 – Future Development Cudgegong Waters Park  
Proposed Walking Track will create a pedestrian linkage across the whole of the Cudgegong Waters Park





- Keep all premises on Lots 1 and 3, neat and tidy.
- Manage the Holiday Park in accordance with the operating approval under Section 68 of the *Local Government Act 1993*.
- Continue to monitor the condition of all major building structures (amenities, playground, BBQ areas etc.) and ensure effective maintenance schedule and procedures are in place.
- Maintain boundary fences.
- Maintain gate facility which will ensure unconstrained pedestrian access by general public to Lot 3.

#### Land Management

- Plant suitable trees/shrubs in strategic locations on Lot 1 to screen caravan storage area, and also provide shade and improve aesthetics and future expansion camping area. (Water drippers may be required to assist establishment. Avoid power line.)
- Continue shrub/tree planting and replacement with suitable species on Lot 3.
- No burning off without consent of Licensor and in accordance with *Rural Fires Act 1997*.
- Ensure efficient and appropriate use of pesticides, herbicides and fertilisers where required.
- Ensure appropriate management and maintenance of all vegetated land across camping areas, including woody vegetation (trimming/removal for safety purposes), and groundcover (mowing/slashing at suitable time intervals.).
- Develop plans to manage vermin and control weeds on all tenured areas.
- In accordance with plans and as required, undertake a targeted control of priority (environmental and noxious) weeds on Lot 3, which threaten the native shrublands and trees.
- Regularly manage rubbish and waste removal in accordance with needs.
- Adequately consider any proposed development on or near the Bushland area (Lot 3), ensuring the objectives of management of this area are not compromised.
- On the tenured grazing area within Lot 1, reduce stock numbers when groundcover falls below 70%.
- No clearing of dead or green woody native vegetation and groundcover without the consent of the Crown Land Manager and the appropriate authorisation.
- Manage all licence conditions issued by Council to their respective terms, for the following tenures:



- The Holiday Park, Lot 1<sup>26</sup>
- Rylestone/Kandos Anglers Club Inc, Lot 3<sup>27</sup>
- Short-term grazing, Lot 1<sup>28</sup>.

#### Improve Processes

- Prepare a safety audit of the site and repair or replace any areas that may impact on public safety.
- Attract new visitations to the Holiday Park and the rest of Lot 1 by promoting the facility through Council papers and media.
- Council officers to be present to monitor all issues of compliance and general site amenity.
- Enable and promote free and unconstrained access to casual users whilst respecting the exclusivity of tenured infrastructure items reserved for paying public (Lot 1) and/or Anglers Club members (Lot 3).
- Establish relationships with relevant tourism industry-based groups such as *Camping and Caravan Association*, and *Mudgee Region Tourism*.

Where it is proposed to construct or establish a public work<sup>29</sup> on reserved or dedicated Crown land, where Native title is not extinguished, prior to approval Council will notify and give an opportunity for comment from any representative Aboriginal/Torres Strait Islander bodies, registered Native title bodies corporate and registered Native title claimants in relation to the land or waters covered by the Reservation or lease as required under the *Native Title Act 1993*.

<sup>26</sup> Ensure maintenance of public access to all areas excluding improvements; no burning off without consent of Licensor and in accordance with Rural Fires Act 1997; manage vermin and control weeds; keep premises neat and tidy; assume responsibilities of all Environmental Law; maintain all plant, machinery, equipment, fixtures and fittings, fences, access ways, gardens and buildings; ensure all permissions and permits required by legislation are in place; erect barricades and signage around unsafe areas.

<sup>27</sup> Ensure maintenance of public access to all areas excluding improvements; no burning off without consent of Licensor and in accordance with Rural Fires Act 1997; manage vermin and control weeds; keep premises neat and tidy; assume responsibilities of all Environmental Law.

<sup>28</sup> Reduce stock numbers when groundcover falls below 70%; not clear dead or green woody native vegetation and groundcover without the consent of the Crown Land Manager.

<sup>29</sup> A public work is defined as:

(a) any of the following that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities:

(i) a building, or other structure (including a memorial), that is a fixture; or

(ii) a road, railway or bridge; or

(iia) where the expression is used in or for the purposes of Division 2 or 2A of Part 2—a stock-route; or

(iii) a well, or bore, for obtaining water; or

(iv) any major earthworks; or

(b) a building that is constructed with the authority of the Crown, other than on a lease.

Major earthworks are defined as:

*earthworks (other than in the course of mining) whose construction causes major disturbance to the land, or to the bed or subsoil under waters.*



Where a proposed update of a Park Master Plan, Capital Works Program or any other plan is the approving documentation for a public work on Crown land, that approval will not be given unless the requirements of the *Native Title Act 1993* have been addressed including the notification and opportunity to comment noted above.

Any development must comply with the scheme contained in the *National Parks and Wildlife Act 1974* for the protection of Aboriginal cultural heritage.

### 10.10 Signage

Council uses signs to regulate the activities carried out on community land and to provide educational information so as to provide a safe and enjoyable place for passive and active recreational pursuits.

Whilst signs are a crucial source of information, they have a significant impact on the aesthetics of a park. All signs must:

- meet a design standard and be approved by Council.
- be sympathetic to their environment in their design, construction and location.
- be placed in accordance with *State Environmental Planning Policy No 64 – Advertising and Signage* or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- be consistent with the *Mid-Western Regional Development Control Plan 2013*.

Note that for issues of safety signage, Council uses the *Statewide Mutual Best Practice Manual – Signs as Remote Supervision*.

Where a sign requires development consent, Council must approve as owner, the lodging of a Development Application prior to assessment by Council in accordance with Schedule 1 Assessment Criteria of SEPP No 64.

Where a sign does not require development consent, Council must approve the sign before erection. All Council signs erected under Section 632 of the *Local Government Act*, plus reserve name signs and traffic and safety signs, are permissible.



## 11 FINANCIAL SUSTAINABILITY

### 11.1 Funding Options

A major challenge in the future management of the Park, will be to generate income to address increasing costs associated with critical maintenance, as well as permit the implementation of new developments which aim at increasing revenue by attracting different people, and in greater numbers. These new initiatives (as outlined in 10.9 and the Implementation Plan below), aim also at providing a more even distribution of revenues received between seasons and throughout the year, rather than the current reliance on several peaks in visitations associated with major events (see 11.2 below).

Income may be sourced from the following:

- **Council's General Revenue Fund (in accordance with annual operational budgets):** Council will contribute to the maintenance and development of Infrastructure, as per agreement with Manager and tenure conditions.
- **Section 7.11 Contributions specifically collected for community land:** This component occurs as developer's contributions to the expansion of land and facilities available for the general use of the community and for community well-being.
- **User pays for minor infrastructure works:** This occurs through fund raising by the relevant body including memberships, minor sales and raffles etc., and aims at achieving tailoring surrounds and layout which suit and are compatible with the event or activity.
- **Community contributions by way of community group projects (eg., Landcare, various service and sporting clubs etc.):** This occurs through grants either sourced externally, and/or contributed locally by the group (eg., for the purposes of environmental works, social and intellectual well-being etc.).
- **Grant and loan funding from either Commonwealth or State Governments:** The implementation of the management structure will allow Primary users to apply for funds from a number of Government bodies with the concurrence of Council. Council may also apply for these funds. Funding opportunities exist from government programs including the Crown Reserves Improvement Fund managed by the Department of Planning, Industry and Environment – Crown lands.
- **Income from commercial operations:** Where tenures are involved, income may arise as per details in the revenue-split in the corresponding agreement. Within the main tenure covering the main camping ground and its facilities, income will result directly from: casual occupation and use of the Reserve such as day visitations, camping fees and motor home visits. It will also come from revenue generated by the proposed cafe and store, and new cabin occupation.

### 11.2 Emerging Opportunities to Increase Income

Council records indicate the Park is not meeting revenue generation expectations. Hence, consideration of new and emerging opportunities to grow site utilisation and income is required.

As well as consolidating existing arrangements for existing paying users of the Reserve, the Park will modify its services to attract new business from an additional and new clientele. Essentially, these



are visitors/users who may not necessarily require a strong association with the activities of the Lake (such as fishing, boating etc.). These are visitors who may be more interested in the tourist activities the town of Mudgee and its region have to offer, such as the scenic environs, regional history, the Mudgee wineries, other activities and functions. These clients may be attracted to the campground facilities in-passing, or by the improved facilities and improved overnight accommodation available at a more premium level which are proposed in this PoM. Note that the “three-four- hour travel window” from the main centres of the state’s population (Sydney, Newcastle areas), places Mudgee and its region in a strong strategic position to develop this market.

For the benefit from increased patronage to be realised infrastructure will need to be enhanced in several main areas. The following is proposed:

- A new kiosk/café and store which is scenically located and more directly accessible by travelers on the Mudgee-Sydney road and the Rylstone Road, paying visitors to the main campground, and the local community.
- The placement of a Camp Kitchen near the main amenities which will be an attraction for longer stays in quieter months.
- Additional services including camp sites for motor homes and vans, and a limited number of well-located stylish cabins.
- A rationalisation of some storage issues (eg. disused vans and campers, stored materials and rubble) which otherwise detracts strongly from the visual amenity of the Park.
- A linked walking track – “The Cudgegong Track”.



## 12 IMPLEMENTATION PLAN

Table 3 sets out a number of actions required to implement the identified Management Strategies and Performance Targets within the Park. These actions are the means of achieving the objectives of this PoM.

A clear indication of how the completion of the aims will be assessed is also provided in the Table under Performance Evaluation.

*Table 3 - Implementation Table*

Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
<b>NATURAL AREA - BUSHLAND</b>			
To ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and	Retain and enhance all native vegetation within the Bushland area by: controlling invasive weeds; managing bushfire hazards; avoiding unnecessary clearing of native plants; maintaining the native vegetation by managing any interventions which would otherwise lead to its degradation.	<ul style="list-style-type: none"> <li>No clearing of dead or green woody native vegetation and groundcover without the consent of the Crown Land Manager and the appropriate authorisation. (C)</li> <li>Adequately consider any proposed development on or near the Bushland area, ensuring the objectives of management of this area are not compromised. (A)</li> <li>Continue shrub/tree planting and replacement with suitable species to maintain bushland values. (C)</li> <li>Ensure efficient and appropriate use of pesticides, herbicides and fertilisers where required. (C)</li> <li>Ensure rubbish is routinely removed. (C)</li> <li>No burning of native vegetation except with the consent of the Licensor and in accordance with <i>Rural Fires Act 1997</i>. (C)</li> <li>Implement the relevant components of local <i>Fire Mitigation Plan</i>. (A)</li> <li>Regular inspection by Council officers. (A)</li> </ul>	<ul style="list-style-type: none"> <li>All burning of native vegetation occurs with the consent of the Licensor and in accordance with <i>Rural Fires Act 1997</i> -no breaches.</li> <li>Key aspects of the current Bushfire Management Plan have been implemented by relevant authority including required hazard reduction strategies.</li> <li>Natural habitat maintained and/or showing positive responses to on-ground actions.</li> <li>No breaches of environmental legislation.</li> </ul>



Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
<p>To promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and</p>	<p>Manage the way humans access and use the Bushland area.</p>	<ul style="list-style-type: none"> <li>• Maintain fences. (C)</li> <li>• Provide and maintain gate facility which will ensure unconstrained pedestrian access by general public to Lot 3. (C)</li> <li>• Install signage at prominent points at Lot 3 to show areas where access by the general public is authorised and unauthorised (eg. areas excluding improvements). (C)</li> <li>• Signpost acceptable behaviour regarding interaction with native vegetation. (C)</li> <li>• Erect barricades and signage around unsafe areas. (C)</li> <li>• Create walking track which links the facilities of Lot 1,2 and 3. (A)</li> <li>• Ensure rubbish is routinely removed. (A)</li> <li>• Regular inspection by Council officers. (A)</li> </ul>	<ul style="list-style-type: none"> <li>• Casual access and use of the Bushland area are occurring.</li> <li>• Access and use by people do not compromise bushland values.</li> <li>• Casual access by people to non-exclusive areas is not impeded.</li> </ul>
<p>To restore degraded bushland, and</p>	<p>Protect native vegetation within the Bushland area by:                      controlling invasive weeds;                      managing bushfire hazards;                      avoiding unnecessary clearing of native plants; maintaining the native vegetation by managing any interventions which would otherwise lead to its degradation.</p>	<ul style="list-style-type: none"> <li>• Continue shrub/tree planting and replacement with suitable species to maintain bushland values. (C)</li> <li>• No clearing of dead or green woody native vegetation and groundcover without the consent of the Crown Land Manager and the appropriate authorisation. (C)</li> <li>• Develop plans to manage vermin and control weeds. (C)</li> <li>• In accordance with plans and as required, undertake a targeted control of priority (environmental and noxious) weeds, which threaten the native shrublands and trees. (C)</li> </ul>	<ul style="list-style-type: none"> <li>• Weed control, re-establishment of bushland maintained and/or showing positive responses to on-ground action.</li> <li>• Feral rodents well maintained and under control.</li> <li>• No breaches of environmental legislation.</li> </ul>



Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
To protect bushland as a natural stabiliser of the soil surface.	Improve all native vegetation within the Bushland area by: controlling invasive weeds; managing bushfire hazards; avoiding unnecessary clearing of native plants; maintaining the native vegetation by managing any interventions which would otherwise lead to its degradation.	<ul style="list-style-type: none"> <li>• Develop plans to manage vermin and control weeds. (C)</li> <li>• In accordance with plans and as required, undertake a targeted control of priority (environmental and noxious) weeds, which threaten the native shrublands and trees. (C)</li> <li>• Regular inspection by Council officers. (A)</li> </ul>	<ul style="list-style-type: none"> <li>• Stability of soil surface is not impaired by use, and/or showing positive responses to on-ground actions through the management of native species (woody and groundcover).</li> <li>• Weed control, re-establishment of bushland maintained and/or showing positive responses to on-ground action.</li> <li>• Feral rodents well maintained and under control.</li> </ul>





Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
<b>GENERAL COMMUNITY USE</b>			
<p>To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:</p> <ul style="list-style-type: none"> <li>in relation to public recreation and the physical, cultural and intellectual welfare or development of individual members of the public, and</li> </ul>	<p>Complete essential works in accordance with required approvals.</p>	<ul style="list-style-type: none"> <li>Dismantle and replace existing Manager’s Residence and position a replacement dwelling to the east of the current entrance. (A)</li> <li>Design/construct café/office between the new residence and the entrance road. (A)</li> <li>New landscaping around café / office. (A)</li> <li>Demolish and renew amenities block. (A)</li> <li>Establish additional powered camp sites to east of track to main amenities (7). (Minimal levelling and filling may be required, power, water.) (AB)</li> <li>Construct modern cabin accommodation (5 units) on the elevated area east of the main entrance track Lot 1. (AB)</li> <li>Construct functional Camp Kitchen near main amenities in camp area. Lot 1 (B)</li> <li>Complete playground works. (B)</li> <li>Relocate the fish cleaning table/area. (Move closer to top water level near boat ramp and provide suitable waste disposal.) Lot 1 (B)</li> <li>Allocate future camping area extension into grazing area. Lot 1 (AB)</li> <li>Create new walking track (“The Cudgegong Track”) which links the facilities of Lots 1,2 and 3, capitalising on views and utilising parts of the old Cudgegong Road where available due to seasonal reductions in dam water levels. (A)</li> <li>In conjunction with new walking track, install bench seat in prominent spot at hilltop of grazing area of Lot 1, and at vantage point on elevated slope of Lot 2. (A)</li> <li>Install signage which provides for the needs (especially directions to new facilities, pathways etc.) and safety of all campers and park users in</li> </ul>	<ul style="list-style-type: none"> <li>All new works are completed in accordance with works plans.</li> <li>Manager ensconced successfully in new dwelling.</li> <li>Greater numbers of customers are now using the Community Use area, enjoying all newly installed facilities.</li> <li>Increased cash flow/profit attributed to more visitations.</li> <li>Feedback from user groups and individual passive users to lease holder and Council is positive.</li> <li>Compliance for RV/Caravan use has been achieved and use and cash flow has been significantly improved.</li> <li>Community enjoying unfettered access for casual use of new recreational facilities, particularly the aged and disabled.</li> <li>Visitors are aware of and using new Cudgegong Track.</li> <li>Appropriate signage clearly directs visitors.</li> <li>Grounds are kept tidy and orderly.</li> <li>All feedback from visitors/customers is positive.</li> </ul>



Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
		accordance with Schedule 1 SEPP 64 and approved by Council. (AB)	
	Continue to manage and maintain existing assets with approvals as required to appropriate standards.	<ul style="list-style-type: none"> <li>Rationalise caravan storage area from the current 67, to a manageable number (suggest 25), and proportionally reduce area of existing storage to a single area, Lot 1. (B)</li> <li>Tidy work/machinery/workshop by removing excess stored equipment and waste materials from yard, Lot 1. (B)</li> <li>Improve internal road network (surfaces and runoff management), especially near entrance and linking long-term site residents, Lot 1. (AB)</li> <li>Carry out essential repairs to amenities, facilities and other major infrastructure as per approved maintenance schedule. (B)</li> <li>Regularly manage rubbish and waste removal in accordance with needs. (ABC)</li> <li>Install signage in accordance with the needs and safety of all campers and park users in accordance with Schedule 1 SEPP 64 and approved by Council. (BC)</li> <li>Manage the Caravan Park - Camping area (Lot 1) in accordance with the approval under Section 68 of the Local Government Act. (B)</li> <li>Manage all licence conditions issued by Council, for the tenures at Lots 1, 2 and 3. (A)</li> </ul>	<ul style="list-style-type: none"> <li>Aesthetics of Cudgegong Waters (Lot 1) from main road and entrance, significantly improved.</li> <li>Stored caravans rationalised and well managed within discrete area allocated.</li> <li>Built assets are managed in accordance with prescribed standards and community expectations.</li> <li>General Community Use area orderly, neat, well maintained.</li> <li>Feedback from user groups including long-term site residents and individual passive users to licensee and Council, is positive.</li> <li>Efficient signage, no confusion.</li> <li>Efficient and timely issuing of consents as required.</li> <li>Tenures being managed appropriately by holders.</li> </ul>
	Manage the land for improved and appropriate outcomes.	<ul style="list-style-type: none"> <li>Maintain boundary fences. (BC)</li> <li>Ensure efficient and appropriate use of pesticides, herbicides and fertilisers where required. (BC)</li> <li>Ensure appropriate management and maintenance of all vegetated land across camping areas, including woody vegetation (trimming/removal for safety purposes), and groundcover (mowing/slashing at suitable time intervals.) (BC)</li> </ul>	<ul style="list-style-type: none"> <li>Improved environmental management outcomes and no breaches of environmental law.</li> <li>Grounds well maintained in accordance with use agreements and responsibilities, orderly, clean.</li> <li>Positive feedback from users' groups and individuals.</li> </ul>



Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
		<ul style="list-style-type: none"> <li>• No burning of native vegetation except with the consent of the Licensor and in accordance with Rural Fires Act 1997. (BC)</li> <li>• Implement the relevant components of local Fire Mitigation Plan.(A)</li> <li>• No clearing of dead or green woody native vegetation and groundcover without the consent of the Crown Land Manager and the appropriate authorisation. (BC)</li> <li>• Develop plans to manage vermin and control weeds. (BC)</li> <li>• As required, undertake a targeted control of priority (environmental and noxious) weeds. (BC)</li> <li>• Adequately consider any proposed development on or near the Bushland area (Lot 3), ensuring the objectives of management of this area are not compromised. (C)</li> <li>• Regularly manage rubbish and waste removal in accordance with needs. (BC)</li> <li>• Install signage which provide for the needs and safety of all campers and park users in accordance with Schedule 1 SEPP 64 and approved by Council. (ABC)</li> <li>• Manage the Camping area (Lot 1) in accordance with the approval under Section 68 of the Local Government Act. (AB)</li> <li>• Manage all licence conditions issued by Council for the tenures at Lots 1, 2 and 3. (A)</li> <li>• Plant suitable trees/shrubs in strategic locations to screen caravan storage area, Lot 1. (B)</li> <li>• Continue shrub/tree planting and replacement with suitable species, Lot 3. (C)</li> <li>• On the tenured grazing area within Lot 1, reduce stock numbers when groundcover falls below 70%. (B)</li> </ul>	<ul style="list-style-type: none"> <li>• Grounds well managed and maintained at all times.</li> <li>• Key aspects of the current Bushfire Management Plan have been implemented by relevant authority including required hazard reduction strategies.</li> <li>• Tenures being managed appropriately by holders.</li> <li>• No breaches of environmental and bushfire legislation.</li> <li>• Control of vermin and noxious and environmental weeds is adequate.</li> <li>• No overgrazing in accordance with 70% cover benchmark.</li> </ul>
	Monitoring and Compliance.	<ul style="list-style-type: none"> <li>• Consider any additional and/or appropriate improvements to conditions issued by Council. (BC)</li> </ul>	<ul style="list-style-type: none"> <li>• Tenure compliance problems non-existent.</li> <li>• Good cooperation regarding maintenance</li> </ul>



Management Objectives	Management Strategies	Actions (A) Council (B) Holder (Park) (C) Holder (Anglers Club)	Performance Evaluation (how they will be assessed)
		<ul style="list-style-type: none"> <li>• Continue to monitor the condition of all major building structures (amenities, playground, BBQ areas etc.) and ensure effective maintenance schedule and procedures are in place. (ABC)</li> <li>• Continue to monitor compliance within long-term site residential area in accordance with S.68 approval and tenure conditions, Lot 1. (A)</li> <li>• Prepare a safety audit of the site and repair or replace any areas that may impact on public safety. (ABC)</li> <li>• Council officers to regularly monitor all issues of compliance and general site amenity. (A)</li> </ul>	<p>responsibilities.</p> <ul style="list-style-type: none"> <li>• General usage has increased.</li> <li>• Community enjoying unfettered access for casual use of new recreational facilities, particularly the aged and disabled.</li> <li>• Audit processes for safety and asset condition reporting developed and working well.</li> </ul>
<ul style="list-style-type: none"> <li>• in relation to purposes for which a lease, licence or other estate may be granted in respect of the land.</li> </ul>	<p>Build relationships with existing and new users in order to draw more people to the General Community Use area, to maximise business and cash flow.</p>	<ul style="list-style-type: none"> <li>• Enable and promote free and unconstrained access to casual users whilst respecting the exclusivity of tenured infrastructure items reserved for paying public (Lot 1 and 2) and/or Anglers Club members (Lot 3). (ABC)</li> <li>• Attract new visitations to Lot 1 by promoting the facility through Council papers and media. (AB)</li> <li>• Establish relationships with relevant tourism industry-based groups such as <i>Camping and Caravan Association</i>, and <i>Mudgee Region Tourism</i>. (A)</li> </ul>	<ul style="list-style-type: none"> <li>• Passive access of Lot 3 is occurring without compromising exclusivity of Anglers Club infrastructure.</li> <li>• Overflow provisions for primitive camping use in peak times, is working across the Reserve.</li> <li>• Overall increase in visitations.</li> </ul>



## 13 CONSULTATION

Community consultation is an important source of information necessary to provide an effective Plan of Management for community land and is a requirement under Section 38 of the LGA. As such, Mid-Western Regional Council is committed to the principles and activities within the participating community which guide Council's decision-making processes. Such participation creates the opportunity for interested parties to become actively involved in the development of a plan which reflects the needs, opinions and priorities of people using the Park.

Prior to formal commencement of this PoM, discussions with all Council representatives and the current licensees (Holiday Park, grazing tenure holder and Anglers Club) were conducted, and views on a range of issues were documented. Many additional discussions were conducted between the authors of this PoM, Council officers and users of the site during site visits for the compilation of the PoM.

Council will undertake further consultation as necessary, in accordance with its communication policy, as required under the LGA.



## 14 REFERENCES

Crown Land Management Act 2016: [www.industry.nsw.gov.au/lands/what-we-do/legislation-policies/the-crown-land-management-act-2016](http://www.industry.nsw.gov.au/lands/what-we-do/legislation-policies/the-crown-land-management-act-2016)

Crown Land Management Regulation: <https://legislation.nsw.gov.au/~view/regulation/2018/88>

Cudgegong Waters Park: <https://www.cudgegongwaterspark.com.au>

Department of Local Government (2000): *Practice Note No.1, Public Land Management, Amended May 2000.*

Espade; NSW Office of Environment and Heritage 2013:  
[www.environment.nsw.gov.au/eSpadeWebapp/Soil Landscapes of Central and Eastern NSW](http://www.environment.nsw.gov.au/eSpadeWebapp/Soil_Landscapes_of_Central_and_Eastern_NSW)

Geological Field Guide to the Cudgegong -Rylstone-Area, Lachlan Fold Belt (1994): *G. Colquhoun, J. Pemberton, T. Wright Department of Geology, University of Wollongong.*

Local Environmental Plan 2012: Mid-Western Regional Council:  
<https://www.legislation.nsw.gov.au/#/view/EPL/2012/374/full>

Local Government Act, 1993: *Amended by the Local Government (Community Land Amendment) Act 1998.* NSW Government: <http://www.legislation.nsw.gov.au/>

Magical Mudgee – History of Mudgee: [www.mudgee.net.au](http://www.mudgee.net.au)

Plan and Prepare, Rural Fire Service of NSW: [www.rfs.nsw.gov.au/plan-and-prepare/](http://www.rfs.nsw.gov.au/plan-and-prepare/)

Roads Act 1993: <https://www.legislation.nsw.gov.au/#/view/act/1993/33/full>

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

[State-of-the-environment](#)/native vegetation: [www.epa.nsw.gov.au/](http://www.epa.nsw.gov.au/)

The Native Vegetation of North-West Wollemi National Park and Surrounds including Nullo Mountain, Coricudgy and Cudgegong Areas, Version 1 (2012). *Office of Environment and Heritage, NSW National Parks and Wildlife Service NSW Government.*

Windamere Dam Factsheet; [www.waternsw.com.au](http://www.waternsw.com.au)



## 15 APPENDICES

1. Core objectives for categories of community land.
2. State Environmental Planning Policies which are particularly relevant to the Cudgegong Waters Park.
3. Cudgegong Waters Park cabin layout: cabins 30-37; 55-61.
4. Layout of roadway connecting long term sites 1-29.
5. Fire hydrant location at Cudgegong Waters Park.



## Appendix 1

### CORE OBJECTIVES FOR CATEGORIES OF COMMUNITY LAND (*Local Government Act 1993*):

#### 36E Core objectives for management of community land categorised as a natural area

The core objectives for management of community land categorised as a natural area are:

- (a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- (b) to maintain the land, or that feature or habitat, in its natural state and setting, and
- (c) to provide for the restoration and regeneration of the land, and
- (d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- (e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a Recovery Plan or Threat Abatement Plan prepared under the *Biodiversity Conservation Act 2016* or the *Fisheries Management Act 1994*.

#### 36F Core objectives for management of community land categorised as a sportsground

The core objectives for management of community land categorised as a sportsground are:

- (a) to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and
- (b) to ensure that such activities are managed having regard to any adverse impact on nearby residences.

#### 36G Core objectives for management of community land categorised as a park

The core objectives for management of community land categorised as a park are:

- (a) to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and
- (b) to provide for passive recreational activities or pastimes and for the casual playing of games, and
- (c) to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

#### 36H Core objectives for management of community land categorised as an area of cultural significance

- (1) The core objectives for management of community land categorised as an area of cultural significance are to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.
- (2) Those conservation methods may include any or all of the following methods:
  - (a) the continuous protective care and maintenance of the physical material of the land or of





- the context and setting of the area of cultural significance.
  - (b) the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.
  - (c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state.
  - (d) the adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact).
  - (e) the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.
- (3) A reference in subsection (2) to land includes a reference to any buildings erected on the land.

### **36I Core objectives for management of community land categorised as general community use**

The core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public:

- (a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
- (b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

### **36J Core objectives for management of community land categorised as bushland**

The core objectives for management of community land categorised as bushland are:

- (a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and
- (b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- (c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- (d) to restore degraded bushland, and
- (e) to protect existing landforms such as natural drainage lines, watercourses and foreshores, and
- (f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- (g) to protect bushland as a natural stabiliser of the soil surface.

**36K Core objectives for management of community land categorised as wetland**

The core objectives for management of community land categorised as wetland are:

- (a) to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and
- (b) to restore and regenerate degraded wetlands, and
- (c) to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.

**36L Core objectives for management of community land categorised as an escarpment**

The core objectives for management of community land categorised as an escarpment are:

- (a) to protect any important geological, geomorphological or scenic features of the escarpment, and
- (b) to facilitate safe community use and enjoyment of the escarpment.

**36M Core objectives for management of community land categorised as a watercourse**

The core objectives for management of community land categorised as a watercourse are:

- (a) to manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows, and
- (b) to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and
- (c) to restore degraded watercourses, and
- (d) to promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.

**36N Core objectives for management of community land categorised as foreshore**

The core objectives for management of community land categorised as foreshore are:

- (a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and
- (b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.



## Appendix 2

### STATE ENVIRONMENTAL PLANNING POLICIES WHICH ARE (MORE) RELEVANT TO CUDGEGONG WATERS PARK

#### State Environmental Planning Policy (Infrastructure) 2007

*State Environmental Planning Policy (Infrastructure) 2007* provides that certain types of works do not require development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A).

Clause 20 of SEPP (Infrastructure) provides that a range of works are “exempt development” when carried out for or on behalf of a public authority (including Mid-Western Regional Council). These works are itemised in Schedule 1 of the SEPP and include paths and ramps for disabled access, fencing, firefighting emergency equipment, small decks, prefabricated sheds of up to 30m<sup>2</sup> in area, retaining walls up to 2m in height, landscaping including paving and access tracks, minor external and internal alterations to buildings, open car parks (size is not specified) and demolition of buildings covering an area of up to 100m<sup>2</sup>.

Clause 65 of the SEPP (Infrastructure) provides that Development for any purpose may be carried out without consent on Crown managed land, by or on behalf of a Crown land manager of the land if the development is for the purposes of implementing a Plan of Management adopted for the land in accordance with the *Local Government Act 1993*. Further, any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council:

- (a) development for any of the following purposes:
  - (i) roads, pedestrian pathways, cycleways, single storey car parks, ticketing facilities, viewing platforms and pedestrian bridges
  - (ii) recreation areas and recreation facilities (outdoor), but not including grandstands
  - (iii) visitor information centres, information boards and other information facilities
  - (iv) lighting, if light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Standard
  - (v) landscaping, including landscape structures or features (such as art work) and irrigation systems
  - (vi) amenities for people using the Reserve, including toilets and change rooms,
  - (vii) food preparation and related facilities for people using the Reserve
  - (viii) maintenance depots
  - (ix) portable lifeguard towers
- (b) environmental management works
- (c) demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area).



### State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP Exempt) provides that certain types of works do not require development consent under Part 4 of the EP&A Act. The General Exempt Development Code is set out in Division 1 of the SEPP, providing the limitations and conditions of the exemptions. They include:

- Access Ramps
- Advertising and signage
- Aerials, antennae and communication dishes
- Air-conditioning units
- Animal shelters
- Aviaries
- Awnings, blinds and canopies
- Balconies, decks, patios, pergolas, terraces and verandahs
- Barbecues and other outdoor cooking structures
- Bollards
- Charity bins and recycling bins
- Earthworks, retaining walls and structural support
- Fences
- Flagpoles
- Footpaths, pathways and paving
- Fowl and poultry houses
- Garbage bin storage enclosure
- Hot water systems
- Landscaping Structures
- Minor building alterations
- Mobile food and drink outlets
- Playground equipment
- Screen enclosures
- Sculptures and artworks
- Temporary uses and structures
- Waste storage containers.

Section 1-16 of Division 2 of the SEPP provides the General Requirements for exempt development.

### State Environmental Planning Policy No 21—Caravan Parks

The aim of *State Environmental Planning Policy No. 21 – Caravan Parks* is to encourage:

- the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and
- the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and
- the provision of community facilities for land so used, and
- the protection of the environment of, and in the vicinity of, land so used.

The *strategies* by which that aim is to be achieved are:

- by requiring that development consent be obtained from the local Council for development for the purposes of caravan parks,
- by providing that development consent may be granted that will authorise the use of sites for short-term stays (whether or not by tourists) or for long-term residential purposes, or for both,
- by requiring that development consent be obtained from the local Council for the subdivision of land



for lease purposes under section 289K of the *Local Government Act 1919*.

### **State Environmental Planning Policy No 64—Advertising and Signage**

*State Environmental Planning Policy No. 64 Advertising and Signage* aims:

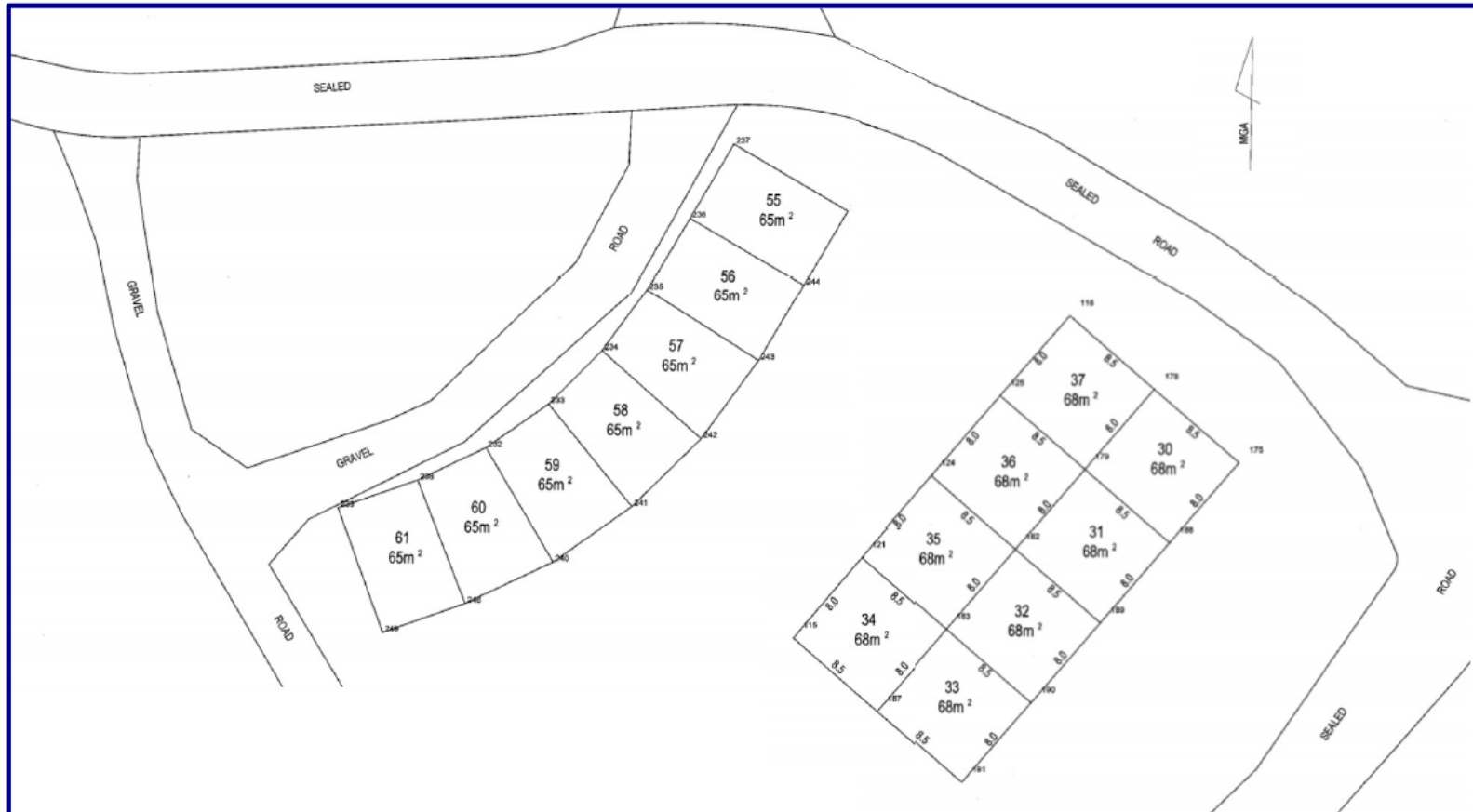
- to ensure that signage (including advertising):
  - (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in suitable locations, and
  - (iii) is of high-quality design and finish,
- to regulate signage (but not content) under Part 4 of the Act, and
- to provide time-limited consents for the display of certain advertisements, and
- to regulate the display of advertisements in transport corridors, and
- to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.



CUDGONG WATERS PARK CABIN LAYOUT – CABINS 30-37; 55-61.

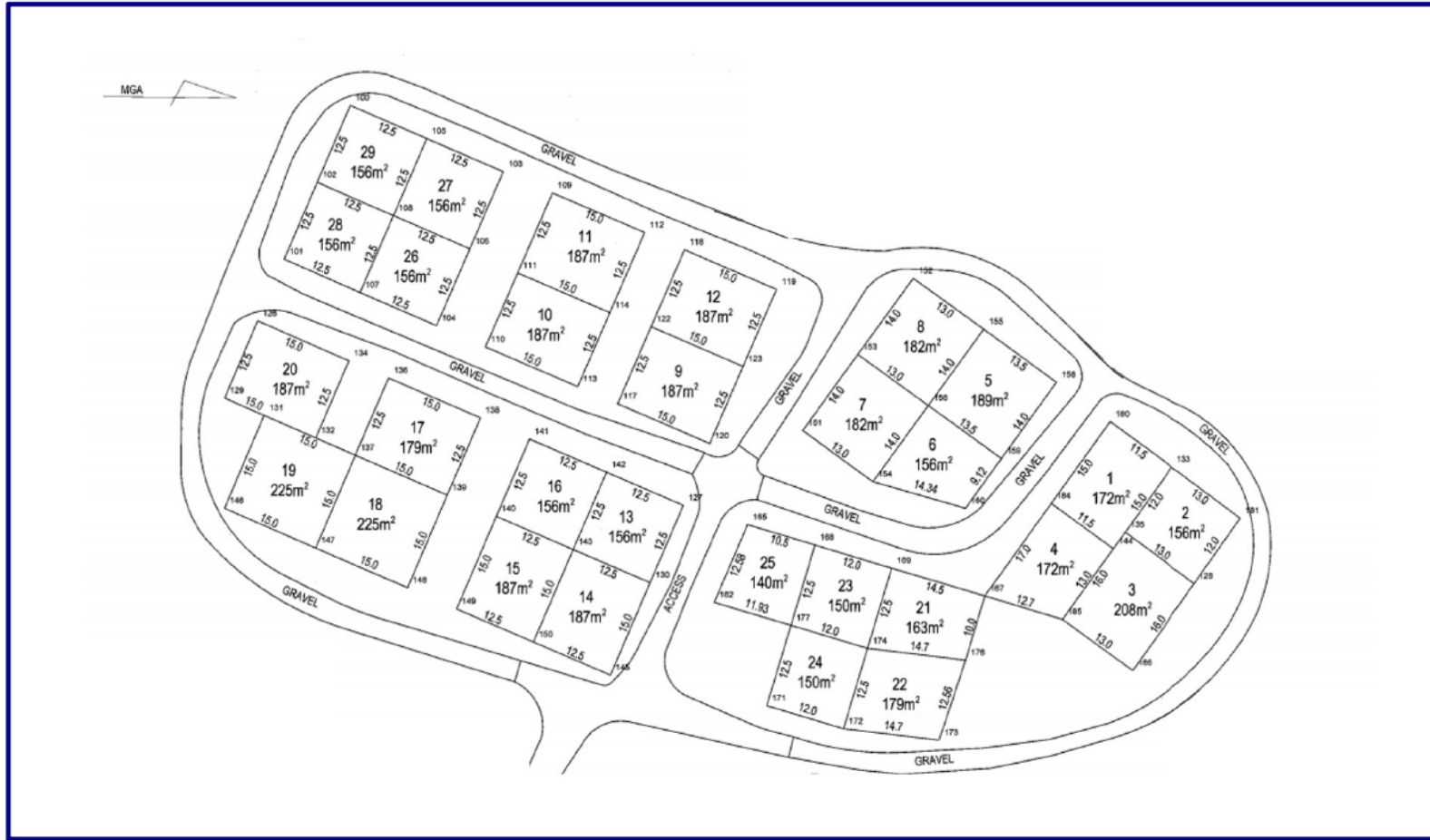
Appendix 3





LAYOUT OF LONG TERM SITES (1-29) AND CONNECTING ROADWAY NETWORK, CUDGONG WATERS CARAVAN PARK.

Appendix 4

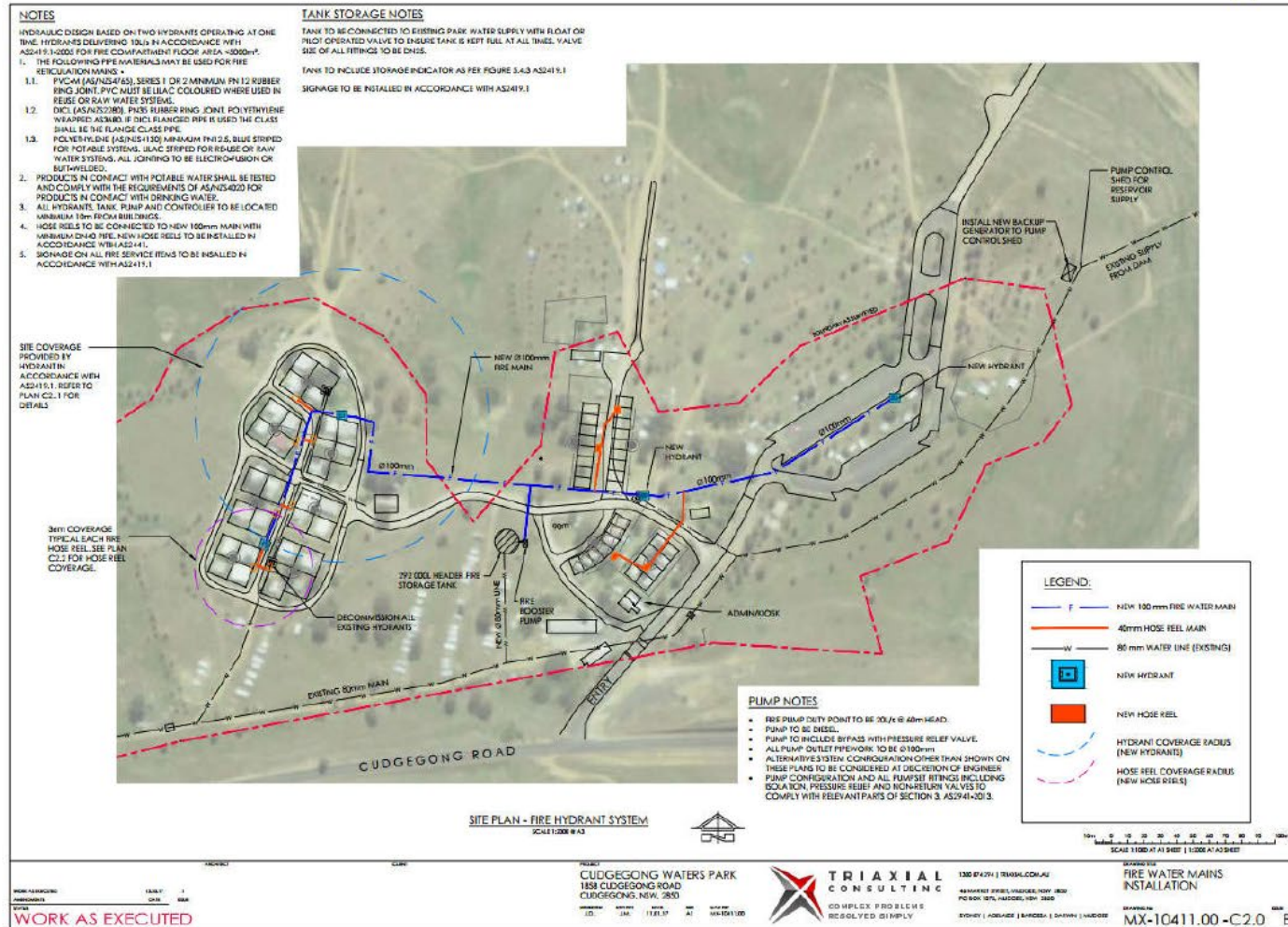




Plan of Management  
Cudgegong Waters Park

Appendix 5

FIRE HYDRANT DESIGN AND LAYOUT AT CUDGEGONG WATERS PARK.







MID-WESTERN REGIONAL COUNCIL  
PO Box 156, MUDGEE NSW 2850  
86 Market Street, Mudgee | 109 Herbert Street, Gulgong | 77 Louee Street, Rylstone  
T 1300 765 002 or 02 6378 2850 | F 02 6378 2815  
E council@midwestern.nsw.gov.au

## Native Title Manager's Advice

Section 8.7 Crown Land Management Act 2016

### NOTE

Use this form when advice of native title manager is required. See Division 3.4 and 3.5, and sec 4.9 for limitations on Crown Land Managers and local councils.

### NATIVE TITLE MANAGER'S WORKSHEETS

#### Cudgegong Waters Park – Authorisation of Plan of Management and Authorisation of Uses R190025 – File Nos Cou500102 & 20447

#### A. Description of Crown Land and Proposed Act/Activity

i) Title details of Crown land (Lot/DP, area and address)

R 190025 Lots 1, 2 and 3 DP 737226, Cudgegong Waters Caravan Park, 1858 Cudgegong Road, Cudgegong 2849. 55.0613 Ha.

ii) Description of Crown land (current use and structures on land)

- Lot 1 DP 737266 (41.79 ha) – Part Lot 1 is used for Holiday/Caravan Park recreational purposes with use appropriate infrastructure and the remainder of Lot 1 is open recreational area not utilised by the Holiday Park – vacant land;
- Lot 2 DP 737266 (0.3313 ha) – used in conjunction with Lot 1, as above – vacant land;
- Lot 3 DP 737266 (12.94 ha) - recreational area for day camping and private camping and access to Windamere Dam for boating and fishing. The Rylstone Kandos Anglers Club currently oversees day to day activity on this site. Use appropriate infrastructure.

See Section 6 of the proposed PoM for list of structures on the Reserve and Section 7 for current uses.

iii) Detailed description of the proposed act/activity (e.g. granting of development consent, adopting a plan of management, carrying out work)

Details attached – adopting a Plan of Management

## CUDGEGONG WATERS PARK – PLAN OF MANAGEMENT | MID-WESTERN REGIONAL COUNCIL

iv) Reserve number R190025	v) NSW Government Gazette notice date and page Gazette No. 20 30/1/1987 Page 527 The Land parcels, were held privately prior to resumption in 1974.	vi) State Act and section under which land was reserved Section 28 of the Crown Lands Consolidation Act, 1913
vii) Purpose of reservation Public Recreation		
viii) Details of any additions or amendments to reserve Nil		
ix) Details of trustee appointment (if any) e.g. NSWGG date and page, and State Act and section under which Council was appointed as trustee Reserve 190025 vested in Council of the Shire of Rylstone via Gazette notice No. 20 30/1/1987 Page 527. Reserve Trust & Appointment of Trust via Gazette notice No. 105 1/9/1995 Pages 6159 & 6160.		
x) Details of any adopted Plans of Management PoM in accordance with Local Government Act – Nil as at 4/4/2022		
xi) Details of any undetermined Aboriginal Land Claims Nil as at 4/4/2022 (Reference – Spreadsheet provided by Crown)		

**B. Worksheet #1 – Compliance with Crown Land Management Act 2016 and Local Government Act 1993**

1. IS THE LAND ON WHICH THE ACTIVITY IS PROPOSED **DEDICATED** OR **RESERVED LAND** FOR WHICH COUNCIL IS CROWN LAND MANAGER UNDER THE CLM ACT?

Yes – go to 2

2. HAS THE LAND BEEN CLASSIFIED AS **OPERATIONAL LAND** WITH THE PRIOR CONSENT OF THE MINISTER? (SEE S3.22(1) AND (3) CLM ACT)

NO - go to 3.

3. HAS A **PLAN OF MANAGEMENT (POM)** UNDER THE LOCAL GOVERNMENT ACT 1993 (LG ACT) BEEN ADOPTED FOR THE LAND FOR THE PURPOSES OF A 3.23(6) AND (7) OF THE CLM ACT? (SEE S3.22(1) CLM ACT, 3.23(6) AND (7) CLM ACT AD S35 LG ACT)

NO - go to 4.

4. HAS **30 JUNE 2021** PASSED? (SEE CL37A(3)(A)(III) CLM ACT)?

YES - go to 7.

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5. IS THERE AN EXISTING PLAN OF MANAGEMENT THAT WAS PREPARED UNDER THE FORMER PART 5 OF THE CROWN LANDS ACT 1989? (CL37A(A) SCHEDULE 7 CLM ACT)

**YES - The existing POM under former Part 5 of the Crown Lands Act 1989 continues to apply, go to 6.**

6. DOES THE ACT CONTRAVENE THE EXISTING POM UNDER FORMER PART 5 OF THE CROWN LANDS ACT 1989? (SEE CL37A(3)© OF SCHEDULE 7 CLM ACT)

**NO - go to 7.**

7. WILL THE ACT OCCUR BEFORE 30 JUNE 2021? (CL70(1) CLM REGULATION 2018)

**NO - go to 9.**

8. IS THE ACT ANY OF THE FOLLOWING (SEE CL70 CLM REGULATION 2018):

- granting of a short term licence over the land of a kind that can be granted by a crown land manager under section 2.20 of the CLM act?
- Renewing an existing lease for a term not exceeding 21 years (including any option period) and there are no additional permitted uses for the land?
- Granting of a new lease not exceeding 21 years (including any option period) where there was a lease in force over the land immediately before 1 July 2018 and there are no permitted uses for the land under the new lease that are additional to those that were permitted under the previous lease?

**Choose YES or NO**

9. DOES THE PROPOSED USE/ACTIVITY CHANGE THE NATURE AND USE OF THE LAND (S3.23(7)(F) CLM ACT) AND S44 LG ACT)?

**NO - go to 11.**

10. IS THE PROPOSED USE/ACTIVITY AUTHORISED BY AND IN ACCORDANCE WITH THE POM (S35 LG ACT)

**Choose YES or NO**

11. IS THE PROPOSED USE/ACTIVITY FOR A PURPOSE FOR WHICH THE LAND WAS RESERVED OR A PURPOSE INCIDENTAL OR ANCILLARY TO THE RESERVE PURPOSE (S2.12 CLM ACT)

**YES - go to 12.**

12. DOES THE PROPOSED ACTIVITY INVOLVE SELLING OR DISPOSING OF CROWN LAND? (S3.22(4)(A) CLM ACT)

**NO - go to 14.**

13. HAS THE COUNCIL OBTAINED THE MINISTER'S CONSENT FOR THE SALE/DISPOSAL? (S3.22(4)(A) CLM ACT)

**Choose YES or NO**

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14. DOES THE PROPOSED ACTIVITY COMPLY WITH ANY LIMITATIONS OR RESTRICTIONS SPECIFIED BY THE COUNCIL'S CROWN LAND MANAGER APPOINTMENT (IF THERE HAS BEEN AN INSTRUMENT OF APPOINTMENT)(S3.22(4)(D)(I) CLM ACT).

**YES - There are no limitations or restrictions specified - go to 15.**

15. DOES THE PROPOSED ACTIVITY COMPLY WITH THE CROWN LAND REGULATIONS (S3.22(4)(D)(II) CLM ACT)

**YES - go to 16.**

16. DOES THE PROPOSED ACTIVITY COMPLY WITH ANY APPLICABLE CROWN LAND MANAGEMENT RULES (S3.22(4)(D)(III) CLM ACT)

**YES - go to 17.**

17. DOES THE USE/ACTIVITY COMPLY WITH THE LG ACT REQUIREMENTS OF DEALINGS IN COMMUNITY LAND? (E.G. SS45-47F OF LG ACT).

**YES - Use/activity complies with the LG Act. Go to worksheet #2.**

**C. Worksheet #2 – Compliance with Native Title Obligations under the Crown Land Management Act 2016****'Relevant Land'** (s8.1 and s8.5 CLM Act)

1. IS THE LAND OF WHICH THE ACTIVITY IS PROPOSED EITHER:

- DEDICATED OR RESERVED LAND FOR WHICH COUNCIL IS CROWN LAND MANAGER UNDER THE CLM ACT, OR
- LAND VESTED IN THE COUNCIL?

**Yes**

**'Excluded Land'** (s8.1 and s8.5 CLM Act)

2. IS THE LAND SUBJECT TO AN APPROVED DETERMINATION OF NATIVE TITLE AND ALL NATIVE TITLE RIGHTS AND INTERESTS HAVE BEEN FOUND TO BE EXTINGUISHED OR DO NOT EXIST (SEE NOTE 1) [HERE](#), OR [HERE](#).

**No – go to 3.**

**Note:** Approved determinations of native title can be found on the National Native Title Register on the [National Native Title Tribunal website](#).

3. IS THE LAND THE SUBJECT OF A REGISTERED INDIGENOUS LAND USE AGREEMENT WHERE ALL NATIVE TITLE RIGHTS AND INTERESTS IN RELATION TO THE LAND HAVE BEEN SURRENDERED (SEE NOTE 2) – [HERE](#) OR [HERE](#)?

**No – go to 4.**

**Note 2:** Registered Indigenous Land use Agreements can be found on the Register of Indigenous Land use Agreements on the [National Native Title Tribunal website](#).

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4. IS THE LAND SUBJECT TO SECTION 24FA PROTECTION (SEE NOTE 3) – [HERE](#) OR [HERE](#)?

**No – go to 5.**

**Note 3:** The land is subject of s24FA protection if all the following apply:

- a) the land is the subject of a non-claimant application for determination of native title, and
- b) the 3-month period specified in a notice given under s66 of the NT Act in relation to application has ended, and
- c) at the end of that 3 month period there has been no native title claim in relation not the land, and
- d) the non-claimant application has not been withdrawn, dismissed or finalised, and
- e) there is no entry on the National Native Title Register that native title exist in relation to the land

5. HAVE ALL NATIVE TITLE RIGHTS AND INTERESTS IN RELATION TO THE LAND BEEN COMPULSORILY ACQUIRED?

**No – go to 6.**

6. IS A NATIVE TITLE CERTIFICATE IN EFFECT WITH RESPECT TO THE LAND?

**No – the land is not 'excluded land'. Go to 7.**

Division 8.3 – Management of Land

7. IS COUNCIL PROPOSING TO COMPULSORILY ACQUIRE NATIVE TITLE RIGHTS AND INTERESTS IN RELATION TO THE LAND (S8.9 CLM ACT)?

**No. Go to 8.**

8. IS THE COUNCIL PROPOSING TO (S8.7 CLM ACT):

- A. GRANT A LEASE, LICENCE, PERMIT, FORESTRY RIGHT, EASEMENT OR RIGHT OF WAY OVER THE LAND
- B. MORTGAGE THE LAND OR ALLOW IT TO BE MORTGAGED
- C. IMPOSE, REQUIRE OR AGREE TO (OR REMOVE OR RELEASE, OR AGREE TO REMOVE OR RELEASE) COVENANTS, CONDITIONS OR OTHER RESTRICTIONS ON USE IN CONNECTION WITH THE LAND
- D. APPROVE (OR SUBMIT FOR APPROVAL) A PLAN OF MANAGEMENT FOR THE LAND THAT AUTHORISES OR PERMITS ANY OF THE KINDS OF DEALINGS REFERRED TO IN PARAGRAPHS A, B, OR C.

**Yes – Council must obtain prior written consent from the Minister. Also go to 8.**

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Division 8.4 – Compensation Responsibilities

9. IS THE PROPOSED CONDUCT OF THE COUNCIL IN CONNECTION WITH ANY DEDICATED OR RESERVED CROWN LAND FOR WHICH THE COUNCIL IS CROWN LAND MANAGER, OR ANY FORMER CROWN LAND THAT IS OR WAS VESTED IN THE COUNCIL?

**Yes – Council will be liable to any compensation, and to indemnify the State for any compensation liable to be paid by the State under the NT Act for the relevant conduct. Go to Worksheet #3.**

**D. Worksheet #3 – Compliance with Native Title Act 1993**

1. Is the act a past act, have native title rights and interests been previously extinguished?

1. MIGHT THE ACT/ACTIVITY AFFECT NATIVE TITLE? (ONLY NEED TO FORM A VIEW ON WHETHER THE ACT **MAY** AFFECT NATIVE TITLE. IF UNSURE, ASSUME 'YES')

**Yes – go to 2.**

2. MIGHT THE ACT/ACTIVITY BE A 'PAST ACT'? E.G. PRIOR TO 1/7/1993 OR 1/1/1994 (SEE 'PAST ACT' CHECKLIST. SEEK LEGAL ADVICE IF UNSURE)

**NO - go to 3.**

3. MIGHT THERE HAVE BEEN A 'PREVIOUS EXCLUSIVE POSSESSION ACT'? E.G. FREEHOLD/LEASE ETC ON OR BEFORE 23/12/1996 (SEE 'PREVIOUS EXCLUSIVE POSSESSION ACT' CHECKLIST. SEEK LEGAL ADVICE IF UNSURE)

Searches indicate that the land parcels were held privately prior to resumption in 1974 which would have extinguished Native title. However, in the interest of certainty it is prudent to proceed on the basis that Native Title does exist until legal advice indicates otherwise.

4. IS THE ACTIVITY A VALID 'FUTURE ACT' (S233 NT ACT)? (SEE 'FUTURE ACT' PROVISIONS CHECKLIST. SEEK LEGAL ADVICE IF UNSURE)

**YES - see 'future act' checklists for relevant actions**

Checklist 1 is: **Not Applicable**

**1. Checklist: Is the Act a Past Act?**

(‘Past Act’ provisions of the NT Act are complex. Native Title Manager Workbook states that native Title Managers are not required to determine whether an act is a ‘past act’. Seek legal advice if unsure).

Acts before 1 July 1993 or 1 January 1994

	Requirement	Section	Requirements satisfied and comments
1.	Is the act the making, amendment or repeal of legislation which took place before 1 July 1993, <u>or</u> Is the act any other act which took place before 1 July 1994	228(2)(a)	<p><b>Choose YES or NO</b></p> <p>Comments:</p> <p style="background-color: yellow;">[insert comments or delete]</p>

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2. Was the act invalid, but would have been valid if native title did not exist?	228(2)(b)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
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Options exercised on or after 1 January 1994 etc (example: exercise of options given before 1 January 1994)

Requirement	Section	Requirements satisfied and comments
3. The act takes place in the exercise of a legally enforceable right created by the making amendment or repeal of legislation before 1 July 1993 or by any other act done before 1 January 1994, or The act takes place in giving effect to, or otherwise because of, an offer, commitment, arrangement or undertaking made or given in good faith before 1 July 1993, and of which there is written evidence created at or about the time the offer, commitment, arrangement or undertaking was made?	228(3)(b)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
4. Is the act taking place on or after 1 January 1994 and is invalid, but would be valid if native title did not exist?	228(3)(a)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
5. The act is not the making, amendment or repeal of legislation.	228(2)(b)	<b>Choose YES or NO</b> Comments: [insert comments or delete]

Extensions, renewals etc (example: extensions and renewal of a licence/lease)

Requirement	Section	Requirements satisfied and comments
6. The act (the 'later act') takes place on or after 1 January 1994	228(4)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
7. Is the act invalid, but would be valid if native title did not exist?	228(4)(a)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
8. Was there an earlier act (the 'earlier act') which created an interest in a person and the earlier act is a 'past act' that took place before the 'later act'?	228(4)(b)	<b>Choose YES or NO</b> Comments:

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			[insert comments or delete]
9.	The earlier act created an interest in a person and the later act creates an interest in the same person or a person who acquired the first person's interest	228(4)(c)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
10.	The interest created by the later act takes effect before or immediately after the interest created by the earlier act ceases to have effect	228(4)(d)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
11.	The interest created by the later act permit activities of a similar kind to those permitted by the earlier act	228(4)(d)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
12.	<b>EXCLUSION:</b> The earlier act is the creation of a non proprietary interest in relation to land and the later act is the creation of a proprietary interest (for example a licence followed by a lease)	228(6)(a)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
13.	<b>EXCLUSION</b> The earlier act is the creation of a proprietary interest in land and the later act is the creation of a larger proprietary interest (for example a lease followed by a grant of freehold title)	228(6)(b)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
14.	<b>EXCLUSION</b> The earlier act contains a reservation or condition for the benefit of Aboriginal peoples or Torres Strait islanders and the later act does not contain the same reservation or condition	228(6)(c)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
15.	<b>EXCLUSION</b> The earlier act or the later act is the making, amendment or repeal of legislation	228(6)(d)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
<b>Other extensions and developments of earlier acts. Example:</b>			
	Requirement	Section	Requirements satisfied and comments
16.	The act (the 'later act') takes place on or after 1 January 1994	228(9)	<b>Choose YES or NO</b>



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		Comments: [insert comments or delete]
17. Is the act invalid, but would be valid if native title did not exist	228(9)(a)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
18. There was an earlier act which contained or conferred a reservation, condition, permission or authority under which the land to which the earlier act relates was to be used at a later time for a particular purpose	228(9)(c)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
19. The earlier act is a 'past act' (i.e. it took place before 1 July 1994 and was invalid, but would have been valid if native title did not exist) and that earlier act took place before the 'later act'	228(9)(b)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
20. The later act is done in good faith under or in accordance with the reservation, condition, permission or authority	228(9)(d)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
21. The later act is the making, amendment or repeal of legislation	228(9)(e)	<b>Choose YES or NO</b> Comments: [insert comments or delete]
<b>General exclusion</b>		
Requirement	Section	Requirements satisfied and comments
22. It is an act declared by the regulations to be an excluded act for the purposes of s228(10)	228(10)	<b>Choose YES or NO</b> Comments: [insert comments or delete]

NOTE: This worksheet does not deal with intermediate period acts as those acts are ones which took place on or after 1 January 1994 but on or before 23 December 1996 and are therefore not relevant to acts which have not yet occurred.

**2. Checklist: Has there been a previous exclusive possession Act?**

Checklist 2 is: **Not Applicable**

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**3. Checklist: Is the Act a future Act?**

Checklist 3 is: **Applicable**

**4. Checklist: Do Subdivisions B–E apply?** (registered indigenous land use agreements)

Checklist 4 is: **NA, go to next subdivision**

**5. Checklist: Does Subdivision F apply? Section 24FA protection** (procedures which indicate absence of Native Title)

Checklist 5 is: **NA, go to next subdivision**

**6. Checklist: Does Subdivision G apply? Section 24GB/24GC apply?**

Checklist 6 is: **NA, go to next subdivision**

**7. Checklist: Subdivision G – Future Acts and primary production**

Checklist 7 is: **NA, go to next subdivision**

**8. Checklist: Subdivision G – Future Acts and primary production**

Checklist 8 is: **NA, go to next subdivision**

**9. Checklist: Subdivision G – future Acts and primary production**

Checklist 9 is: **NA, go to next subdivision**

**10. Checklist: Subdivision H – management of water and airspace**

Checklist 10 is: **NA, go to next subdivision**

**11. Checklist: Subdivision I – renewals and extensions etc**

Checklist 11 is: **NA, go to next subdivision**

**12. Checklist: Subdivision JA – public housing etc**

Checklist 12 is: **NA, go to next subdivision**

**13. Checklist: Subdivision J – reservations, leases etc**

Checklist 13 is: **Applicable**

Validates acts relating to areas that are subject to a reservation, proclamation, dedication, condition, permission or authority (the reservation or dedication); and acts in relation to certain leases granted to statutory authorities. Generally it applies to acts done in good faith under or in accordance with the reservation, proclamation, dedication, condition, permission or authority. This Subdivision will be relied upon the most to validate acts that are future acts (Native title Manager Workbook Pub10/2017 p.75).

Section 24JA: Acts covered by this subdivision

Requirement	Section	Requirements satisfied and comments
1. <b>Reservations etc:</b> This Subdivision applies to a future act (the later act) if an act (the earlier act) took place before the later act and on or before 23 December 1996.	24JA(1)(a)	YES Comments: The reservation was gazetted on 30/1/1987

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Requirement	Section	Requirements satisfied and comments
2. <b>Reservations etc:</b> This Subdivision applies to a future act (the later act) if the earlier act was valid (including because of Division 2 or 2A).	24JA(1)(b)	YES Comments: The earlier act (the making of the Reservation) was valid because it occurred prior to 23 December 1996
3. <b>Reservations etc:</b> This Subdivision applies to a future act (the later act) if the earlier act: <ol style="list-style-type: none"> <li>i. was done by the Crown in right of the Commonwealth, a State or Territory; or</li> <li>ii. consisted of the making, amendment or repeal of legislation by the Commonwealth, a State or Territory.</li> </ol>	24JA(1)(c)	YES Comments: Reservation was proclaimed by the Minister for Lands under s28 of the Crown Lands Consolidation Act 1913 gazetted on 30/1/1987
4. <b>Reservations etc:</b> This Subdivision applies to a future act (the later act) if the earlier act contained, made or conferred a reservation, proclamation, dedication, condition, permission or authority (the reservation) under which the whole or part of any land or waters was to be used for a particular purpose:	24JA(1)(d)	YES Comments: The earlier act was for a particular purpose being the land was reserved for Public Recreation
5. <b>Reservations etc:</b> This Subdivision applies to a future act (the later act) if the later act is done in good faith: <ol style="list-style-type: none"> <li>i. under or in accordance with the reservation; or</li> <li>ii. in the area covered by the reservation, so long as the act's impact on native title is no greater than the impact that any act that could have been done under or in accordance with the reservation would have had.</li> </ol> <p><b>Example 1:</b> A future act consisting of the creation of a national park management plan might be covered by subparagraph (e)(i), if the land concerned was reserved for the establishment of the national park before 23 December 1996.</p> <p><b>Example 2:</b> A future act consisting of the grant of a forestry licence might be covered by that subparagraph, if the grant is done under or in accordance with a dedication for forestry purposes made before 23 December 1996.</p> <p><b>Example 3:</b> Subparagraph (e)(ii) might apply if particular land was reserved as a hospital site before 23 December 1996, and instead a school is later built on the land.</p>	24JA(1)(e)	YES Comments: <ol style="list-style-type: none"> <li>1. <b>Adoption of the Plan of Management</b> - The adoption of the Cudgegong Waters Park PoM is consistent with the intent of the original reservation for the Reserve. It is noted that the PoM directs a category change from General Community Use to Natural Area - Bushland for part of Lot 3 DP 737266 &amp; all of Lot 2 DP 737266 – this intention is to dealt with by the Crown under legislation.</li> <li>2. <b>Authorisation of the uses cited in the proposed Plan of Management</b> - Each of the acts described at cl7.1, cl7.2 &amp; cl10.2 in our opinion, would be consistent with or have no greater impact on Native title that any act could have been done under or in accordance with the reservation would have had. Any other proposed activity or land use would require individual NT assessment.</li> </ol>

## CUDGEGONG WATERS PARK – PLAN OF MANAGEMENT | MID-WESTERN REGIONAL COUNCIL

Requirement	Section	Requirements satisfied and comments
		<p>3. <b>Development</b> – In our opinion, the potential for further development or improvements as described at cl10.9 Development of New &amp; Improvement of Existing Facilities and cl10.10 Signage; would be consistent with or have no greater impact on Native title that any act could have been done under or in accordance with the reservation would have had.</p> <p>4. <b>Leases, Licences and other Estates</b> – The Existing Interests &amp; Tenures described at cl7.3; the issuing of Leases, Licences and Other Estates as described at cl10.3 and the granting of Easements at cl10.8, in our opinion, will be either consistent with the reserve purpose or will have no greater impact that any act that could have been done under or in accordance with the reservation would have had.</p>
6. <b>Leases:</b> This Subdivision also applies to a future act (the later act) if an act (the earlier act) took place before the later act and on or before 23 December 1996	24JA(2)(a)	NO Comments: The proposed act is not a lease
7. <b>Leases:</b> This Subdivision also applies to a future act (the later act) if the earlier act was valid (including because of Division 2 or 2A)	24JA(2)(b)	NO Comments: The proposed act is not a lease
8. <b>Leases:</b> This Subdivision also applies to a future act (the later act) if the earlier act was done by the Crown in right of the Commonwealth, a State or a Territory	24JA(2)(c)	NO Comments: The proposed act is not a lease
8. <b>Leases:</b> This Subdivision also applies to a future act (the later act) if the earlier act consisted of the grant of a lease to a statutory authority of the Commonwealth, the State or the Territory, where:	24JA(2)(d)	NO Comments: The proposed act is not a lease

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Requirement	Section	Requirements satisfied and comments
i. under the lease, the whole or part of any land or waters covered by the lease was to be used for a particular purpose; or ii. there is written evidence, created at any time on or before 23 December 1996 by the Commonwealth, the State or the Territory, that the whole or part of any land or waters covered by the lease was to be used for a particular purpose		
8. <b>Leases:</b> This Subdivision also applies to a future act (the later act) if the later act is done in good faith and consists of the use, by the statutory authority or any person, of the land or waters for the particular purpose.	24JA(2)(e)	NO  Comments: The proposed act is not a lease

Treatment of Acts covered by Subdivision JA

Validity	24JB (1)	If this Subdivision applies to a future act, the act is valid.
<b>Extinguishment consequences – public works</b>		Extinguishment consequences – public works public work means s.253 NT Act (Cth): (a) any of the following that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities: (i) a building, or other structure (including a memorial), that is a fixture; or (ii) a road, railway or bridge; or (iia) where the expression is used in or for the purposes of Division 2 or 2A of Part 2—a stock route; or (iii) a well, or bore, for obtaining water; or (iv) any major earthworks; or
	24JB (2)	(b) a building that is constructed with the authority of the Crown, other than on a lease. Note: In addition, section 251D deals with land or waters relating to public works.  <b>s.251D NT Act (Cth):</b> Land or waters on which a public work is constructed, established or situated In this Act, a reference to land or waters on which a public work is constructed, established or situated includes a reference to any adjacent land or waters the use of which is or was necessary for, or incidental to, the construction, establishment or operation of the work.  If the act consists of the construction or establishment of a public work: a. the act extinguishes any native title in relation to the land or waters on which the public work (on completion of its construction or establishment) is situated; and

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	b. the extinguishment is taken to have happened when the construction or establishment of the public work began.
<b>Extinguishment consequences – not public works</b>	If the act does not consist of the construction or establishment of a public work, the non extinguishment principle applies to the act.
<b>Compensation</b>	The native title holders are entitled to compensation for the act in accordance with Division 5.
<b>Who pays compensation</b>	The compensation is payable by: <ul style="list-style-type: none"> <li>a. If the act is attributable to the Commonwealth – the Crown in the right of the Government; or</li> <li>b. If the act is attributable to a State or Territory – the Crown in right of the State or Territory</li> </ul>
<b>Notification of public works</b>	If the act consists of the construction or establishment of a public work, then, before the act is done, the person proposing to do the act must: <ul style="list-style-type: none"> <li>a. notify, in the way determined, by legislative instrument, by the Commonwealth Minister, any representative Aboriginal/Torres Strait Islander bodies, registered native title bodies corporate and registered native title claimants in relation to the land or waters covered by the reservation or lease that the act, or acts of that class, are to be done in relation to the land or waters; and</li> <li>b. give them an opportunity to comment on the act or class of acts.</li> </ul>
<b>Notification of national, state and territory park management plans</b>	If the act consists of the creation of a plan for the management of a national, State or Territory park intended to preserve the natural environment of an area, then, before the act is done, the person proposing to do the act must: <ul style="list-style-type: none"> <li>a. notify, in the way determined, by legislative instrument, by the Commonwealth Minister, any representative Aboriginal/Torres Strait Islander bodies, registered native title bodies corporate and registered native title claimants in relation to the land or waters covered by the plan that the act is to be done in relation to the land or waters; and</li> <li>b. give them an opportunity to comment on the act.</li> </ul>

**14. Checklist: Subdivision K – facilities for services to the public**Checklist 14 is: **Not Applicable****15. Checklist: Subdivision L – low impact future Acts**Checklist 15 is: **Not Applicable****16. Checklist: Subdivision M – Acts passing the freehold test**Checklist 16 is: **NA, go to next subdivision****17. Native Title Manager's Considered Advice**

## WHETHER NATIVE TITLE MANAGER'S ADVICE IS REQUIRED

Native Title Manager's advice is required because the Act is a future Act and is intended to be carried out on land where Native Title may still exist. Compliance with the Native Title Act 1993 and the CLM Act is required.

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COMPLIANCE WITH NATIVE TITLE ACT 1993

In our opinion, the proposed act, being the adoption of the Cudgegong Waters Park Plan of Management will not affect Native Title. The act impacting Reserve 190025 will comply with the applicable provisions of the Native Title Act 1993 being a valid future act under section 24JA. Therefore the proposed act may be carried out.

1. Any uses authorised by the Cudgegong Waters Park Plan of Management and not requiring further Native Title Manager advice will either have no impact on Native title or be valid under Sections 24JA and/or 24KA of the Native Title Act 1993. Refer to cl7.1, cl7.2 and cl10.2 of the Cudgegong Waters Park Plan of Management for the list of these uses.
2. The proposed act, being the adoption of the Red Hill Reserve Plan of Management, may occur at some further stage and authorises further acts which may affect Native title.
  - a. The proposed Development acts cited at cl10.9 Development of New & Improvement of Existing Facilities and cl10.10 Signage, will comply with the applicable provisions of the Native Title Act 1993 being a valid future act under section 24JA.

Of these proposed Development acts, it is considered that some of the acts cl10.9 Development of New & Improvement of Existing Facilities and cl10.10 Signage, **will involve the construction or establishment of a Public Work and will require notification under s24JB(6) of the Native title Act 1993 to be given to NTSCORP for opportunity to comment.**

It is considered that the other proposed Development acts will not constitute a Public Work and notification is not required.

- b. The proposed authorisation of leases, licences and other estates generally, and the specific reference to issuing licences described at cl7.3 The Existing Interests & Tenures; the issuing of Leases, Licences and Other Estates as described at cl10.3 and the granting of Easements at cl10.8, will comply with the applicable provisions of the Native Title Act 1993 being a valid future act under section 24JA. Apart from the proposed licence agreements expressly authorised, any other agreements will require future Native Title Manager's advice.
3. The Future Works not specified but enabled under the Cudgegong Waters Park Plan of Management will require future Native Title Manager's advice. These works should be valid, but have not been assessed here as more detail is required.
4. It is noted that the Cudgegong Waters Park Plan of Management directs a category change from *General Community Use* to *Natural Area - Bushland* for part of Lot 3 DP 737266 & all of Lot 2 DP 737266. The remainder of the Reserve's area will retain the categorisation of *General Community Use*. This matter is to be dealt with by the Crown under the relevant legislation.
5. It is noted that searches indicate that the land parcels were held privately prior to resumption in 1974 which would have extinguished Native title. However, in the interest of certainty it is prudent to proceed on the basis that Native Title does exist until legal advice indicates otherwise.

CUDGEGONG WATERS PARK – PLAN OF MANAGEMENT | MID-WESTERN REGIONAL COUNCIL

Choose a statement.

RISKS TO COUNCIL

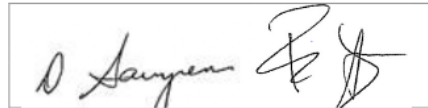
1. Should Native Title be determined to exist at some future date, Council may be liable for compensation under the provisions of the Native Title Act 1993 (Cth) and the Crown Land Management Act 2016, for the effect on Native Title rights and interests by the proposed Acts.
2. There is no undetermined Aboriginal Land Claim over this Reserve at this date.
3. If there is a significant change to the projects, this Native Title Manager's advice and/or the NTSCORP notification may need to be re-examined. Please discuss with Council's Native Title Manager(s).

**Names of Native Title Managers**

Diane Sawyers

Ian Clayton

**Signature**



Date 6 April 2022

**Attachments**

Insert list of attachments. For example

- Project documents
- Extract from Crown Land Manager Reserves Portal
- Current title search
- Copies of the NSW Government Gazette notices (if any) reserving land and appointing Council as trustee/reserve trust manager/ Crown land manager
- Native Title searches
- Evidence of previous exclusive possession Act which extinguished Native Title
- Notification to NTSCORP