

9.6 Deductible Gift Recipient status for Mudgee Arts Precinct and the Mid-Western Regional Council Library

REPORT BY THE FINANCIAL OPERATIONS CO-ORDINATOR
TO 21 FEBRUARY 2024 ORDINARY MEETING
GOV400105, FIN300056

RECOMMENDATION

That Council:

1. **receive the report by the Financial Operations Co-ordinator on seeking Deductible Gift Recipient status for the Mudgee Arts Precinct and to the Mid-Western Regional Council Library;**
2. **adopt the attached rules of operation for the Mudgee Arts Precinct;**
3. **adopt the attached rules of operation for the Mid-Western Regional Council Library; and**
4. **seek Deductible Gift Recipient status for the above operations from the Australian Tax Office.**

Executive summary

Registered charities and government agencies can apply for Deductible Gift Recipient status for activities which are prescribed for this status. Activities which can apply for Deductible Gift Recipient status include 12.1.4 a Public Art Gallery and 12.1.2 a Public Library. Obtaining this status may lead to greater gifts as it reduces the net cost to the philanthropist of any donation made.

Disclosure of Interest

Nil

Detailed report

In order to obtain Deductible Gift Recipient status Council has been advised to adopt rules for the operations which reflect the terminology that the Australian Taxation Office is expecting to see. The attached rules are manageable within the current operating function of these two services.

Obtaining Deductible Gift Recipient status is expected to increase the level of philanthropy related to these activities. Adopting the attached rules is considered the most efficient method for seeking this status.

Community Plan implications

Theme	Good Government
Goal	An effective and efficient organisation
Strategy	Pursue efficiencies and ongoing business improvement

Strategic implications

Council Strategies

Mudgee Arts Precinct Strategic Plan

Council Policies

Not Applicable

Legislation

Income Tax Assessment Act 1997 (Cth)

Financial implications

There are no budget variations recommended in this report. Establishing the operating procedures and registering for Deductible Gift Recipient status will occur from currently approved operating budgets.

Any material donations received by the two facilities requiring a budget adjustment will be processed through the Quarterly Budget Reports.

Associated Risks

The only risk identified is that the small administrative cost might not produce the expected benefits.

PETER BROWNE
FINANCIAL OPERATIONS CO-ORDINATOR

LEONIE VAN OOSTERUM
DIRECTOR CORPORATE SERVICES

5 February 2024

Attachments: 1. Mid-Western draft DGR Art Gallery rules.
2. Mid-Western draft DGR library rules.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER

Mid-Western Regional Council Mudgee Arts Precinct – Rules
ABN 96 149 391 332

1 Name

The name of the public art gallery is the Mudgee Arts Precinct (hereafter referred to as the Art Gallery).

2 Definitions

In these Rules, unless the contrary intention appears:

ABN means the Australian Business Number.

ATO means the Australian Taxation Office.

Councillors means the governing body of Mid-Western Regional Council.

Curator means the curator of the Art Gallery referred to in clause 7.

Deductible Contribution means a contribution described in items 7 and item 8 of the table in section 30-15 of the ITAA 97 in relation to an eligible fundraising event held for the purpose of the Art Gallery.

Gift means gifts of money or property for the principal purpose (Object) of the Art Gallery set out in clause 3 and includes gifts described in item 1 of the table in section 30-15 of the ITAA 97.

Gift Fund means a fund referred to in clause 4.

ITAA 97 means the *Income Tax Assessment Act 1997* (Cth).

Object means the object of the Art Gallery referred to in clause 3.

Public Art Gallery means the Art Gallery referred to in clause 1 above and is an internal institution of the Mid-Western Regional Council.

Rules means Mid-Western Regional Art Gallery – Rules.

Mid-Western Regional Council means the local government entity of Mid-Western Regional Council which bears the ABN 96 149 391 332.

3 Object of the Art Gallery

The object (principal purpose) of the Art Gallery is:

- a) to operate to collect, preserve and maintain its artworks; and
- b) to exhibit such artworks to the public; and
- c) to do such other things as are incidental or conducive to the attainment of the Object;

in accordance with any rulings or determinations issued by the ATO for such public art gallery.

4 Gift Fund

Without limiting clause 8, the Art Gallery shall maintain a management account (**Gift Fund**):

- (i) to receive, identify and record Gifts and Deductible Contributions;
- (ii) to identify and record any money received by the Art Gallery because of those Gifts and Deductible Contributions, including interest earned and proceeds from the sale of gifted property; and
- (iii) that does not identify and record any other money or property including receipts from sponsorships or commercial activities, grants, vouchers donated and proceeds of raffles, charity auctions, dinners and similar events, if the proceeds are not Deductible Contributions.

The Gift Fund must be used only for the purpose of the Art Gallery. To avoid any doubt, it is declared that the Gift Fund forms part of the accounts of the Art Gallery.

The Gift Fund will not maintain a separate bank account, the general bank account of Mid-Western Regional Council will be used to deposit gifts and deductible contributions and make payments in connection with the objects of the Art Gallery.

Thorough accounting procedures must be established in the accounting system of Mid-Western Regional Council including separate general ledger revenue and expenditure accounts to identify gifts and deductible contributions received into the Gift Fund and payments out of the Gift Fund.

Money or property of the Gift Fund cannot be mixed with other money or property of Mid-Western Regional Council.

5 Governance

The Public Library is to be administered by Mid-Western Regional Council and hence all policies are determined by of Mid-Western Regional Council.

6 Public Art Panel

The Public Art Panel will assist the Mid-Western Regional Council in the curation of the Art Gallery and shall operate in accordance with the Public Art Panel's Terms of Reference, as adopted by Mid-Western Regional Council from time to time.

7 Curator

Mid-Western Regional Council shall appoint one or more persons to the office of Curator with such frequency and based on such criteria as it determines from time to time.

8 Non Profit

- (a) The income and property of the Art Gallery, however it is derived, shall be applied exclusively towards the promotion of the Object.
- (b) No portion of the income and property in clause 8(a) shall be paid or distributed directly or indirectly to members, Councillors or Mid-Western Regional Council by way of dividend, bonus or otherwise.
- (c) Clause 8(b) does not prevent Mid-Western Regional Council and the Art Gallery from paying or reimbursing a member or officer of Mid-Western Regional Council or the Art Gallery:
 - (i) for reasonable expenses incurred on behalf of the Public Libraries;
 - (ii) fair and reasonable remuneration for services rendered to the Public Libraries; or
 - (iii) for goods supplied in the ordinary and usual course of business as an arm's length transaction; or
 - (iv) in fulfilment of the Object, if this is done in good faith on terms no more favourable than if the person was not a member or an officer of Mid-Western Regional Council.

9 Accounts

- (a) Proper accounts shall be kept by Mid-Western Regional Council of the sums of money received and expended by the Art Gallery, including the Gift Fund. For this purpose separate general ledger revenue and expenditure accounts are to be established and maintained in the accounting system of Mid-Western Regional Council for the Art Gallery.
- (b) A proper set of annual financial statements of the Art Gallery must be prepared and maintained.

10 Dissolution or Revocation of Endorsement

If the fund, authority or institution is wound up or if the endorsement (if any) of the Art Gallery of Mid-Western Regional Council as a deductible gift recipient for the operation of the fund, authority or institution is revoked, any surplus assets of the gift fund remaining after the payment of liabilities attributable to it, shall be transferred to a fund, authority or institution to which income tax-deductible gifts can be made.

11 Changes to the Rules

- (a) The Council may from time to time, by resolution evidenced in writing or otherwise in writing, amend the Rules. However, such amendments shall not take effect unless the Art Gallery continues to be eligible for endorsement as a Deductible Gift Recipient under Division 30 of the ITAA 97.
- (b) If required by the ATO, Mid-Western Regional Council shall notify the ATO of any amendment to the Rules.
- (c) In the event that a proposed amendment could reasonably result in the fund ceasing to be entitled to be endorsed as a Deductible Gift Recipient, Mid-Western Regional Council must seek and obtain the consent of the ATO to the proposed amendment, before it takes effect.

The Mid-Western Regional Council Art Gallery – Rules were adopted via Council resolution on the [insert date]. Details of the resolution are provided below:

[Insert wording of resolution here]

Signed by:

The Mayor, Councillor Des Kennedy
Mayor of Mid-Western Regional Council
Date: ____ / ____ / _____

Mr Brad Cam
General Manager
Date: ____ / ____ / _____

Mid-Western Regional Council Library – Rules
ABN 96 149 391 332

1 Name

The Mid-Western Regional Council Library is a public library and includes four branches known as Mudgee Library, Gulgong Library, Rylstone Library and Kandos Library and also a mobile branch (hereafter collectively referred to as the Public Library).

2 Definitions

In these Rules, unless the contrary intention appears:

ABN means the Australian Business Number.

ATO means the Australian Taxation Office.

Councillors means the governing body of Mid-Western Regional Council.

Deductible Contribution means a contribution described in items 7 and item 8 of the table in section 30-15 of the ITAA 97 in relation to an eligible fundraising event held for the purpose of the Public Library.

Gift means gifts of money or property for the principal purpose (Object) of the Public Library set out in clause 3 and includes gifts described in item 1 of the table in section 30-15 of the ITAA 97.

Gift Fund means a fund referred to in clause 4.

ITAA 97 means the *Income Tax Assessment Act 1997* (Cth).

Object means the object of the Public Library referred to in clause 3.

Public Library means the Libraries referred to in clause 1 above and are an internal institution of the Mid-Western Regional Council.

Rules means Mid-Western Regional Council Library – Rules.

Mid-Western Regional Council means the local government entity of Mid-Western Regional Council which bears the ABN 96 149 391 332 and is a Local Authority for the purposes of the Library Act 1939.

3 Object of the Public Library

The object (principal purpose) of the Public Library is:

- a) to operate to own, acquire, preserve and maintain its collection including books, non-book materials, literary material and electronic resources in Australia; and
- b) to make its collection available to the public, via a no charge membership available to all residents of NSW, for purposes including lending, reading, study, education, reference and online access to the collection; and
- c) to make its collection available to all residents living outside NSW, via a temporary membership, for purposes including lending, reading, study, education, reference and online access to the collection; and
- d) to make the collection, including any exhibits, readily identifiable to the public as the collection of a library; and
- e) to provide an information and local history service, provide free access to technology and the internet as well as a variety of public programs and events that promote literacy and foster life-long learning.
- f) To provide access to appropriate facilities including: community, study and working spaces.
- g) to make the Public Library readily identifiable to the public as a library and as something distinguishable from the rest of the affairs of the Mid-Western Regional Council and which has a separate institutional character; and
- h) to employ appropriately skilled and qualified staff to help run the Public Library; and

- i) to establish branches of the Public Library within the Mid-Western Regional Council local government area; and
- j) to raise money by way of Gifts, Deductible Contribution, sales of merchandise, and charges for some services or otherwise to achieve the Object; and
- k) to do such other things as are incidental or conducive to the attainment of the Object, in accordance with any rulings or determinations issued by the ATO for such public libraries.

4 Gift Fund

Without limiting clause 8, the Public Library shall maintain a management account (**Gift Fund**):

- (i) to receive, identify and record Gifts and Deductible Contributions;
- (ii) to identify and record any money received by the Public Library because of those Gifts and Deductible Contributions, including interest earned and proceeds from the sale of gifted property; and
- (iii) that does not identify and record any other money or property including receipts from sponsorships or commercial activities, grants, vouchers donated and proceeds of raffles, charity auctions, dinners and similar events, if the proceeds are not Deductible Contributions.

The Gift Fund must be used only for the purpose of the Public Library. To avoid any doubt, it is declared that the Gift Fund forms part of the accounts of the Public Library.

The Gift Fund will not maintain a separate bank account, the general bank account of Mid-Western Regional Council will be used to deposit gifts and deductible contributions and make payments in connection with the objects of the Public Library.

Thorough accounting procedures must be established in the accounting system of Mid-Western Regional Council including separate general ledger revenue and expenditure accounts to identify gifts and deductible contributions received into the Gift Fund and payments out of the Gift Fund.

Money or property of the Gift Fund cannot be mixed with other money or property of Mid-Western Regional Council.

5 Governance

The Public Library is to be administered by Mid-Western Regional Council and be compliant with the requirements of the Library Act 1939.

6 Policies

The Public Library operates under the Governance of Mid-Western Regional Council and hence all policies are determined by of Mid-Western Regional Council.

Mid-Western Regional Council must create operational policies, guidelines and procedures with respect to the following: proper use of a library, borrowing and returning of library material, fees and charges, and collection development and management.

7 Administration

Mid-Western Regional Council shall engage appropriately skilled staff to administer the library services.

8 Non Profit

- (a) The income and property of the Public Library, however it is derived, shall be applied exclusively towards the promotion of the Object.
- (b) No portion of the income and property in clause 8(a) shall be paid or distributed directly or indirectly to members, Councillors or Mid-Western Regional Council by way of dividend, bonus or otherwise.
- (c) Clause 8(b) does not prevent Mid-Western Regional Council and the Public Libraries from paying or reimbursing a member or officer of Mid-Western Regional Council or the Public Libraries:
 - (i) for reasonable expenses incurred on behalf of the Public Libraries;

- (ii) fair and reasonable remuneration for services rendered to the Public Libraries; or
- (iii) for goods supplied in the ordinary and usual course of business as an arm's length transaction; or
- (iv) in fulfilment of the Object, if this is done in good faith on terms no more favourable than if the person was not a member or an officer of Mid-Western Regional Council.

9 Accounts

- (a) Proper accounts shall be kept by Mid-Western Regional Council of the sums of money received and expended by the Public Libraries, including the Gift Fund. For this purpose separate general ledger revenue and expenditure accounts are to be established and maintained in the accounting system of Mid-Western Regional Council for the Public Libraries.
- (b) A proper set of annual financial statements of the Public Libraries must be prepared and maintained.

10 Dissolution or Revocation of Endorsement

If the fund, authority or institution is wound up or if the endorsement (if any) of the Public Libraries of Mid-Western Regional Council as a deductible gift recipient for the operation of the fund, authority or institution is revoked, any surplus assets of the gift fund remaining after the payment of liabilities attributable to it, shall be transferred to a fund, authority or institution to which income tax-deductible gifts can be made.

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- (b) If required by the ATO, Mid-Western Regional Council shall notify the ATO of any amendment to the Rules.
- (c) In the event that a proposed amendment could reasonably result in the fund ceasing to be entitled to be endorsed as a Deductible Gift Recipient, Mid-Western Regional Council must seek and obtain the consent of the ATO to the proposed amendment, before it takes effect.

The Mid-Western Regional Council Public Library – Rules were adopted via Council resolution on the [insert date]. Details of the resolution are provided below:

[Insert wording of resolution here]

Signed by:

The Mayor, Councillor Des Kennedy
Mayor of Mid-Western Regional Council
Date: ____ / ____ / _____

Mr Brad Cam
General Manager
Date: ____ / ____ / _____