



# **AGENDA**

## **Ordinary Council Meeting**

**Tuesday, 18 July 2023**

**I hereby give notice that an Ordinary Council Meeting will be held on:**

**Date: Tuesday, 18 July 2023**

**Time: 10:00 AM**

**Location: Council Chambers, Estates Building Cressy Street  
Deniliquin**

**Philip Stone  
Chief Executive Officer**

## Order of Business

<b>1. OPENING MEETING .....</b>	<b>3</b>
<b>2. ATTENDANCE .....</b>	<b>3</b>
<b>3. LIVE STREAMING STATEMENT .....</b>	<b>3</b>
<b>4. ACKNOWLEDGEMENT OF COUNTRY .....</b>	<b>3</b>
<b>5. STATEMENT OF PURPOSE.....</b>	<b>3</b>
<b>6. APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS .....</b>	<b>3</b>
<b>7. CONFIRMATION OF MINUTES .....</b>	<b>4</b>
7.1. Draft Minutes Ordinary Council Meeting 20 June 2023 .....	4
<b>8. DISCLOSURES OF INTERESTS .....</b>	<b>18</b>
<b>9. MAYORAL MINUTE(S) .....</b>	<b>18</b>
<b>10. URGENT ITEMS OF BUSINESS .....</b>	<b>18</b>
<b>11. REPORTS OF COMMITTEES .....</b>	<b>18</b>
11.1. Minutes of the Rotary Park User Group Committee .....	18
<b>12. REPORTS TO COUNCIL.....</b>	<b>26</b>
12.1. Edward River Growth Strategy Advisory Committee.....	26
12.2. CEO Nomination to CEO Performance Review Committee .....	32
12.3. Media and Social Media Policies .....	34
12.4. Alcohol Free Zone Reinstatement .....	73
12.5. Development Services Activity Report June 2023.....	76
12.6. Update on RFS Assets .....	85
12.7. Investment and Reserves Report - June 2023 .....	138
12.8. Major Projects Update .....	165
12.9. Resolutions of Council .....	173
12.10. Mayor, Councillor, CEO Meetings June 2023 .....	182
<b>13. NOTICES OF MOTIONS .....</b>	<b>183</b>
<b>14. QUESTIONS WITH NOTICE .....</b>	<b>183</b>
<b>15. CONFIDENTIAL MATTERS .....</b>	<b>183</b>
15.1. Contract C2023/01 - Regional Kerbside Collection Services Tender .....	183
15.2. Growth Strategy Tender .....	<b>Error! Bookmark not defined.</b>
<b>16. CLOSE OF MEETING .....</b>	<b>184</b>

**1. OPENING MEETING****2. ATTENDANCE****3. LIVE STREAMING STATEMENT**

Edward River Council wishes to advise members of the public that Council Meetings will be recorded and will be available after each meeting on Council's website [Councils Website](#). All care will be taken to maintain the privacy of those in attendance, however As a visitor in the public gallery, your presence may be recorded. By remaining In the public gallery, it is assumed your consent is given in the event your image is broadcast. This includes any filming by television cameras if attendance is approved by the Chief Executive Officer or Mayor.

**4. ACKNOWLEDGEMENT OF COUNTRY**

The Edward River Council acknowledges and embraces the Traditional Owners of the Lands within the Edward River Council area - the Wamba Wamba/Perrepa Perrepa Peoples – and pay our respects to their elders, past, present, and emerging. The Edward River Council also recognises the diversity of different cultures within our community and their contribution.

**5. STATEMENT OF PURPOSE**

I have come here as a Councillor freely and without bias to:

- Represent the views of the community in considering the matters before us today
- To vote in a matter I consider to be in the best interest of the community
- To observe the Code of Conduct and respect the rule of the chair and views of my fellow Councillors.

**6. APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS**

## **7. CONFIRMATION OF MINUTES**

### **7.1. DRAFT MINUTES ORDINARY COUNCIL MEETING 20 JUNE 2023**

**Author:** Executive Assistant

**Authoriser:** Chief Executive Officer

### **RECOMMENDATION**

That Council accept the Draft Minutes of the Ordinary Council Meeting held 20 June 2023 as a true and correct record.

### **BACKGROUND**

### **ISSUE/DISCUSSION**

### **STRATEGIC IMPLICATIONS**

### **COMMUNITY STRATEGIC PLAN**

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

5.2 Financially sustainable

5.3 Professional Workplace culture

### **FINANCIAL IMPLICATIONS**

### **LEGISLATIVE IMPLICATIONS**

### **ATTACHMENTS**

Draft Minutes Ordinary Council Meeting 20 June 2023



# **MINUTES**

## **Ordinary Council Meeting**

**Tuesday, 20 June 2023**

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**Time: 10:00 AM**

**Location: Council Chambers, Estates Building Cressy Street  
Deniliquin**

**Philip Stone  
Chief Executive Officer**

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

**Order of Business**

<b>1. OPENING MEETING .....</b>	<b>4</b>
<b>2. ATTENDANCE.....</b>	<b>4</b>
<b>3. LIVE STREAMING STATEMENT .....</b>	<b>4</b>
<b>4. ACKNOWLEDGEMENT OF COUNTRY .....</b>	<b>4</b>
<b>5. STATEMENT OF PURPOSE .....</b>	<b>4</b>
<b>6. APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS .....</b>	<b>4</b>
<b>7. CONFIRMATION OF MINUTES.....</b>	<b>5</b>
7.1. Draft Minutes Ordinary Council Meeting held 16 May 2023 .....	5
<b>8. DISCLOSURES OF INTERESTS .....</b>	<b>5</b>
<b>9. MAYORAL MINUTE(S).....</b>	<b>5</b>
<b>10. URGENT ITEMS OF BUSINESS .....</b>	<b>5</b>
<b>11. REPORTS OF COMMITTEES.....</b>	<b>5</b>
11.1. ARIC Draft Minutes - Meeting No 22, Thursday 11 May 2023.....	5
11.2. Draft Minutes Aboriginal Liaison Committee .....	6
11.3. Draft Minutes Edward River Council Health Services Advisory Committee .....	6
<b>12. REPORTS TO COUNCIL .....</b>	<b>7</b>
12.1. 2023-24 Operational Plan & Budget - revised draft.....	7
12.2. Resourcing Strategy .....	7
12.3. Making of the Rates 2023-24 .....	8
12.4. DA2022/0090 - Service Station - 66-72 Hardinge St, Deniliquin .....	8
12.5. DA 2023/0026 - Residential Shed - 205 Henry Street Deniliquin .....	9
12.6. Development Services Activity Report May 2023 .....	9
12.7. Councillor and Mayoral Fees 2023-24.....	10
12.8. Adoption of Plans of Management.....	10
12.9. Edward River Council Arts & Culture Advisory Committee - Appointment of Committee Members .....	11
12.10. Edward River Village Update.....	11
12.11. Major Projects Update.....	12
12.12. Investment and Reserves Report - May 2023.....	12
12.13. Resolutions of Council .....	12
12.14. Mayor, Councillor, CEO Meetings May 2023 .....	12
<b>13. NOTICES OF MOTIONS .....</b>	<b>13</b>
13.1. Notice of Motion - Cr Shirlee Burge .....	13
<b>14. QUESTIONS WITH NOTICE.....</b>	<b>14</b>

ORDINARY COUNCIL MEETING MINUTES	TUESDAY, 20 JUNE 2023
15. CONFIDENTIAL MATTERS.....	14
16. CLOSE OF MEETING.....	14

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

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**1. OPENING MEETING**

The meeting opened at 10am

**2. ATTENDANCE**

Present: Mayor Cr Peta Betts, Deputy Mayor Cr Paul Fellows, Cr Shirlee Burge, Cr Linda Fawns, Cr Tarria Moore, Cr Pat Fogarty, Cr Shannon Sampson, Cr Marc Petersen, Chief Executive Officer, Director Corporate Services, Director Infrastructure

In Attendance: Acting Chief Finance Officer, Acting Senior Governance Officer, Executive Assistant to the Chief Executive Officer

**3. LIVE STREAMING STATEMENT**

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**4. ACKNOWLEDGEMENT OF COUNTRY**

The Edward River Council acknowledges and embraces the Traditional Owners of the Lands within the Edward River Council area - the Wamba Wamba/Perrepa Perrepa Peoples – and pay our respects to their elders, past, present, and emerging. The Edward River Council also recognises the diversity of different cultures within our community and their contribution.

**5. STATEMENT OF PURPOSE**

I have come here as a Councillor freely and without bias to:

- Represent the views of the community in considering the matters before us today
- To vote in a matter I consider to be in the best interest of the community
- To observe the Code of Conduct and respect the rule of the chair and views of my fellow Councillors.

**6. APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS****RESOLUTION 2023/0620/6**

Moved: Cr Moore

Seconded: Cr Sampson

That the leave of absence requested by Cr Harold Clapham be accepted.

**CARRIED UNANIMOUSLY**

**ORDINARY COUNCIL MEETING MINUTES****TUESDAY, 20 JUNE 2023**

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**7. CONFIRMATION OF MINUTES****7.1. DRAFT MINUTES ORDINARY COUNCIL MEETING HELD 16 MAY 2023****RESOLUTION 2023/0620/7.1**

Moved: Cr Fawns

Seconded: Cr Petersen

That Council accept the Draft Minutes of the Ordinary Council Meeting held 16 May 2023 as a true and correct record.

**CARRIED UNANIMOUSLY****8. DISCLOSURES OF INTERESTS**

12.5 DA 2023/0026 - Residential Shed - 205 Henry Street, Deniliquin Mayor Cr Peta Betts declared a Non-Pecuniary - Less than significant interest and will leave the Chambers during the discussion.

**9. MAYORAL MINUTE(S)**

Nil

**10. URGENT ITEMS OF BUSINESS**

Nil

**11. REPORTS OF COMMITTEES****11.1. ARIC DRAFT MINUTES - MEETING NO 22, THURSDAY 11 MAY 2023****RESOLUTION 2023/0620/11.1**

Moved: Deputy Mayor Cr Paul Fellows

Seconded: Cr Linda Fawns

That Council receives the draft Minutes of the Audit, Risk & Improvement Committee meeting held on 11 May 2023, and endorse the resolutions of that meeting.

**CARRIED UNANIMOUSLY**

**ORDINARY COUNCIL MEETING MINUTES****TUESDAY, 20 JUNE 2023****11.2. DRAFT MINUTES ABORIGINAL LIAISON COMMITTEE****RESOLUTION 2023/0620/11.2**

Moved: Cr Linda Fawns

Seconded: Deputy Mayor Cr Paul Fellows

That Council

1. Notes the recommendations made by the Aboriginal Liaison Committee.
  - a. That a thank you be given to Intereach for their participation in the Recognition Walk Project.
  - b. That Yarkuwa be congratulated on the relocation to their Forever Home in Hay Road.
  - c. That progress of the Weraï Land and Water Corporation be noted and that there will be a celebration during October 2023.
2. Notes the draft minutes of the Aboriginal Liaison Committee held Wednesday 24 May 2023.

**CARRIED UNANIMOUSLY****11.3. DRAFT MINUTES EDWARD RIVER COUNCIL HEALTH SERVICES ADVISORY COMMITTEE****RESOLUTION 2023/0620/11.3**

Moved: Cr Shirlee Burge

Seconded: Cr Pat Fogarty

That Council

1. Notes the recommendations made by the Edward River Council Health Services Advisory Committee:
  - a. Note that an additional motion will come to Council in relation to the Blue Tree Project.
  - b. Note that an Expression of Interest to join the Edward River Council Health Services Advisory Committee is currently on the Edward River Council website and social media page.
2. Note the draft Minutes of the Edward River Council Health Services Advisory Committee Meeting of 29 May 2023.

**CARRIED UNANIMOUSLY**

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

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**12. REPORTS TO COUNCIL****12.1. 2023-24 OPERATIONAL PLAN & BUDGET - REVISED DRAFT**

Moved: Deputy Mayor Cr Paul Fellows

Seconded: Cr Tarria Moore

**RESOLUTION 2023/0620/12.1**

That Council adopt the 2023-24 Operational Plan and Budget as amended based on community consultation.

Cr Shirlee Burge requested her vote against the motion be recorded.

**CARRIED****12.2. RESOURCING STRATEGY****RESOLUTION 2023/0620/12.2**

Moved: Cr Tarria Moore

Seconded: Cr Linda Fawns

That Council:

1. Adopts the updated Resourcing Strategy incorporating the Long-Term Financial Plan, Asset Management Strategy and Workforce Management Strategy.
2. Notes that the Long-Term Financial Plan Scenario 2 Enhanced Asset Investment Model, is the recommended scenario as detailed in the endorsed Financial Sustainability Report.
3. Notes that, in response to community feedback, the Long-Term Financial Plan Scenario 1, Base Case, is the scenario on which the 2023-24 Operational Plan and budget have been prepared.

**CARRIED****12.3. MAKING OF THE RATES 2023-24****RESOLUTION 2023/0620/12.3**

Moved: Deputy Mayor Cr Paul Fellows

Seconded: Cr Linda Fawns

That Council

1. Make the Rates and Charges for the 2023/24 rating year as outlined in this report using the land values with a base date valuation of 1 July 2022;
2. Make three (3) ordinary rates, being Business, Farmland and Residential;
3. Continue with the minimum rate / ad-valorem for Business rates and the base rate / ad-valorem basis for Farmland and Residential Rates
4. Approves an increase to overall rates by 4.4%, being the maximum amount allowable as determined by the Independent Pricing & Regulatory Tribunal (IPART)
5. Adopts the overdue Rates & Charges maximum interest rate of 9% on all overdue interest rate, in accordance with section 566 (3) of the Act.

**CARRIED UNANIMOUSLY**

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Page 7

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

**12.4. DA2022/0090 - SERVICE STATION - 66-72 HARDINGE ST, DENILIKUIN****RESOLUTION 2023/0620/12.4**

Moved: Cr Shirlee Burge

Seconded: Cr Shannon Sampson

That Council resolves to: -

1. APPROVE the development application DA2022/0090 for a Service Station , on Lot 1 DP 839101 and Lot 3 50 DP 758913, 66-70 & 72 Hardinge Street, Deniliquin as shown on plan numbered TP01 - TP06, BD-EDEN-0901, BD-EDEN-0401, BD-EDEN-3802, BD-EDEN-0701 & LAN LA/01/DEN SS/PP2022 and described in details accompanying the Development Application, in accordance with section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the following reasons:
  - a. The proposed development is permissible within the zone under the Deniliquin Local Environmental Plan 2013 and complies with the provisions of the environmental planning instrument.
  - b. The proposed development, subject to the imposition of conditions, is unlikely to have any unreasonable impact on the environment, and where an adverse impact has been identified appropriate conditions have been imposed to mitigate the effects.
2. Impose conditions of consent as outlined in attachment 1.

Division:-

For: Cr Shirlee Burge, Cr Shannon Sampson, Cr Linda Fawns, Mayor Cr Peta Betts

Against: Cr Tarria Moore, Deputy Mayor Cr Paul Fellows, Cr Pat Fogarty, Cr Marc Petersen

**CARRIED UNDER CASTING VOTE OF THE CHAIR****12.5. DA 2023/0026 - RESIDENTIAL SHED - 205 HENRY STREET DENILIKUIN**

Mayor Cr Peta Betts left the Chambers at 10.43am

**RESOLUTION 2023/0620/12.5**

Moved: Cr Linda Fawns

Seconded: Cr Tarria Moore

That Council resolves to: -

1. APPROVE Development Application DA2023/0026 for use of the Residential Shed, at Lot E DP402718, 205 Henry Street , Deniliquin, as shown on plan numbered A101, A201, A202, A302, A303 & A304 and described in details accompanying the Development Application, in accordance with section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the following reasons:
  - a) The application complies with the applicable planning controls and has demonstrated to have a satisfactory effect on the environment.
  - b) Council has considered the concerns raised regarding the development and has determined that there are insufficient grounds to refuse the application.

**ORDINARY COUNCIL MEETING MINUTES****TUESDAY, 20 JUNE 2023**

c) The application is compliant with the key planning provisions contained within the Deniliquin Local Environmental Plan 2013 and the Deniliquin Development Control Plan 2016.

2. Impose the conditions outlined in attachment 4

Division

For: Cr Shirlee Burge, Cr Linda Fawns, Cr Tarria Moore, Cr Pat Fogarty, Cr Shannon Sampson, Cr Marc Petersen, Deputy Mayor Cr Paul Fellows

Against: Nil

Mayor Cr Peta Betts returned to the Chambers at 10.49am

**CARRIED UNANIMOUSLY**

**12.6. DEVELOPMENT SERVICES ACTIVITY REPORT MAY 2023****RESOLUTION 2023/0620/12.6**

Moved: Cr Tarria Moore

Seconded: Cr Marc Petersen

That Council receive and note the May 2023 Development Services Activity Report

**CARRIED UNANIMOUSLY**

**12.7 COUNCILLOR AND MAYORAL FEES 2023-24****RESOLUTION 2023/0620/12.7**

Moved: Cr Linda Fawns

Seconded: Cr Shirlee Burge

That Council:

1. Set the Mayoral annual fee for 2023-24 at \$28,430, the maximum amount allowable, being a 3% increase from the previous years maximum, in line with the annual determination by the Local Government Remuneration Tribunal dated 27 April 2023, noting that Council declined to accept the 2% increase in 2022-23.
2. Set the Councillor's annual fee for 2023-24 at \$13,030, the maximum amount allowable, being a 3% increase from the previous years maximum, in line with the annual determination by the Local Government Remuneration Tribunal dated 27 April 2023, noting that Council declined to accept the 2% increase in 2022-23.
3. Notes that the total 2023-24 Councillor and Mayoral fees, should Council adopt the maximum fees, will be \$145,700, an increase of \$4,250 from the 2022-23 actual fees.

**CARRIED**

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

**12.8 ADOPTION OF PLANS OF MANAGEMENT****RESOLUTION 2023/0620/12.8**

Moved: Cr Pat Fogarty

Seconded: Cr Linda Fawns

That Council:

- 1 Adopt the Plans of Management noted below, pursuant to Section 40 of the Local Government Act 1993 and in accordance with 3.23(6) of the Crown Land Management Act 2016:
  - o Plan of Management for Gorman Park Reserve,
  - o Plan of Management for North Tennis Club Reserve,
  - o Plan of Management for the Deniliquin Sewerage Treatment Plant,
  - o Plan of Management for Davidson Street Old Landfill Site,
  - o Plan of Management for Former Scout Hall,
  - o Plan of Management for Various Reserves (Mayrung Hall, Maude Soil Conservation Area, Wanganella Common, Macauley Street, Wanganella Tennis Courts and Rotary Park Plantation), Plan of Management for Murray Valley Industry Park Reserve and;
  - o Plan of Management for Various Reserves (Coonambigil Creek, Outback Youth Centre Reserve, Sloane Street Boat Ramp, Edward River Reserve, Yarralong Park Reserve, Strip between VRA & Medical Centre, Twin Rivers Reserve, Russell Street Stormwater Basin Reserve, Wanderer Street Reserve, R J Edwards Park Reserve, Bound by Burton, Harfleur, Decimus Streets Reserve, Henry Street Boat Ramp Reserve, Neighborhood Park Reserve, Warragoon Public School Reserve and Bills Park Reserve).

- 2 Give public notice of the adoption of the Plans of Management.

**CARRIED UNANIMOUSLY****12.9 EDWARD RIVER COUNCIL ARTS & CULTURE ADVISORY COMMITTEE – APPOINTMENT OF COMMITTEE MEMBERS****RESOLUTION 2023/0620/12.9**

Moved: Cr Tarria Moore

Seconded: Cr Marc Petersen

That Council:

1. Amend the Terms of Reference to provide for four community representatives
2. Appoint the following representatives to the Edward River Council Arts & Culture Advisory Committee:
  - a. Bronwyn Bathgate, ArtLife representative

Page 10

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

- b. Deidre Hamilton, Yarkuwa Indigenous Knowledge Centre representative
- c. Helen Thomson, U3A representative
- d. Kerry-Anne Jones, South West Arts representative
- e. Matthew Johnson, Kurrajong representative
- f. Paul Young, South West Music representative
- g. Sarah Parsons, Outback Theatre for Young People representative
- h. Tina Pisasale, Deniliquin Dramatic Society representative
- i. Vicki Lowry, Deni Play on the Plains Festival Ltd representative
- j. Virginia Reid, Edward River Arts Society representative
- k. Baron De Merxhausen, Community representative
- l. Melanie Andersen, Community representative
- m. Narelle Whitham, Community representative
- n. Kate Butler, Community representative

CARRIED UNANIMOUSLY

## 12.10 EDWARD RIVER VILLAGE UPDATE

## RESOLUTION 2023/0620/12.10

Moved: Cr Tarria Moore

Seconded: Deputy Mayor Cr Paul Fellows

That Council notes the update on the status of the Edward River Village Project  
 Note that a table has been missed in the agenda and will be added to the public minutes.

CARRIED UNANIMOUSLY

Updated 23 May 2023						
Seniors Living Precinct (SLP) - Stage 1 Civils, 6 homes Budget 2022/23	2022/23 Adopted Budget	2022/23 YTD Actuals, Commitments & Planned	YTD Forecast Surplus/Defi cit (& CF)	2023/24 Estimated Expenses	Overall Project Forecast	Overall Project Surplus/Deficit
Expenses						
Preliminaries (or other expenses)	-\$600,000.00	-\$413,517.88	\$186,482.12	-\$99,000.00	-\$512,517.88	\$87,482.12
Marketing & Advertising		-\$89,862.40		\$0.00	-\$89,862.40	-\$89,862.40
Dwellings	-\$2,280,000.00	-\$2,054,233.81	\$225,766.19	\$0.00	-\$2,054,233.81	\$225,766.19
Civil	-\$1,200,000.00	-\$1,146,694.37	\$53,305.63	\$0.00	-\$1,146,694.37	\$53,305.63
Electrical	-\$300,000.00	-\$377,649.50	-\$77,649.50	-\$48,978.50	-\$426,628.00	-\$126,628.00
Landscape construction stage 1	-\$50,000.00	\$0.00	\$50,000.00	-\$50,000.00	-\$50,000.00	\$0.00
Total Expenses	-\$4,430,000.00	-\$3,992,095.56	\$437,904.44	-\$197,978.50	-\$4,190,074.06	\$239,925.94

## 12.11 MAJOR PROJECTS UPDATE

Cr Linda Fawns left the Chambers at 11.14am and returned at 11.16am

Deputy Mayor Cr Paul Fellows left the Chambers at 11.16am

## RESOLUTION 2023/0620/12.11

Moved: Cr Linda Fawns

Seconded: Cr Marc Petersen

That Council receive and note the Major Projects Program – Progress Report for May 2023

CARRIED UNANIMOUSLY

Page 11

**ORDINARY COUNCIL MEETING MINUTES****TUESDAY, 20 JUNE 2023**

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**12.12 INVESTMENT AND RESERVES REPORT - MAY 2023**

Deputy Mayor Cr Paul Fellows returned to the Council Chambers at 11.18am

**RESOLUTION 2023/0620/12.12**

Moved: Cr Tarria Moore

Seconded: Cr Pat Fogarty

That Council:

1. Note and receive the May 2023 report on Investments totalling \$43,851,668 inclusive of cash at bank for day-to-day operations.
2. Note that actual interest earned in the month of May 2023 was \$81,843.
3. Note that total interest earned for the year to 31 May 2023 is \$773,442.
4. Note the Certificate of the Responsible Accounting Officer and adopt the Investment Report.

**CARRIED UNANIMOUSLY**

**12.13 RESOLUTIONS OF COUNCIL**

Acting Chief Financial Officer left the Chambers at 11.18am and returned at 11.21am

**RESOLUTION 2023/0620/12.13**

Moved: Cr Tarria Moore

Seconded: Deputy Mayor Cr Paul Fellows

That Council note the information in the Resolutions of Council as at 9 June 2023.

**CARRIED UNANIMOUSLY**

**12.14 MAYOR, COUNCILLOR, CEO MEETINGS MAY 2023****RESOLUTION 2023/0620/12.14**

Moved: Cr Marc Petersen

Seconded: Cr Tarria Moore

That Council

1. Note the Mayor, Councillor and Chief Executive Officer meetings attended on behalf of Council during the month of May 2023.
2. Continue to advise the Chief Executive Officer's Executive Assistant of their meeting diaries and activities attendance.

**CARRIED UNANIMOUSLY**

## ORDINARY COUNCIL MEETING MINUTES

TUESDAY, 20 JUNE 2023

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**13. NOTICES OF MOTIONS****13.1 NOTICE OF MOTION - CR SHIRLEE BURGE****NOTICE OF MOTION**

Moved Cr Shirlee Burge

Seconded: Cr Marc Petersen

I, Shirlee Burge, put forward the motion that from the July Ordinary Meeting the Councillor Group receive a monthly detailed financial analysis and report on the progress of the Edward River Village project in order to monitor and maintain financial stability and viability during the construction stages of the Village.

**MOTION LOST**

**14. QUESTIONS WITH NOTICE**

The following question on notice was provided to the Chief Executive Officer by Cr Shirlee Burge within the required timeframe, however was omitted from the produced agenda.

*For the benefit of all Councillors could you please provide a detailed list of all expenditure to date on the ERV SLP Project from Inception to May31st 2023. Please include all costs ie: planning surveying drafting, architectural, project management, consultancy, site decontamination, fencing, advertising & promotional, legal costs, civil construction and initial electrical, latent and non-latent variations.*

The Chief Executive Officer initially thought the Notice of Motion and the Questions with Notice were the same.

As the question had been answered by way of the staff report included in the Business Paper, the Chief Executive Officer inadvertently excluded the Question On Notice in the Business Paper.

A response was provided to the Notice of Motion by way of a comment to the notice of motion, which was essentially an answer to the question.

Questions on Notice that comply with the requirements of the Code of Meeting Practice are to be included in the Business Paper, however this meeting the omission of the question was an oversight.

**15. CONFIDENTIAL MATTERS**

Nil

**16. CLOSE OF MEETING**

The meeting closed at 11.34am.

## **8. DISCLOSURES OF INTERESTS**

## **9. MAYORAL MINUTE(S)**

## **10. URGENT ITEMS OF BUSINESS**

NOTE: 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.

Only the mover of a motion can speak to the motion before it is put.

A motion of dissent cannot be moved against a ruling by the chairperson.

## **11. REPORTS OF COMMITTEES**

### **11.1. MINUTES OF THE ROTARY PARK USER GROUP COMMITTEE**

**Author: Executive Assistant - Infrastructure**

**Authoriser: Director Infrastructure**

#### **RECOMMENDATION**

That Council accept the Minutes of the Rotary Park User Group Committee held on Wednesday 14 June 2023 as a true and correct record.

#### **COMMUNITY STRATEGIC PLAN**

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

5.2 Financially sustainable

5.3 Professional Workplace culture

#### **ATTACHMENTS**

**1. Minutes for Rotary Park User Group Meeting - Wednesday 14 June 2023**

**Attachment 1 - ECM\_257916\_v1\_ Public Minutes for Rotary Park User Group Meeting 17-15  
PM - Wednesday 14 June 2023**



# **MINUTES**

## **Rotary Park User Group Meeting**

**Wednesday, 14 June 2023**

**Commencing at 5:15 PM**

**Rotary Park, Deniliquin**

Rotary Park User Group Meeting

Wednesday, 14 June 2023

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**TABLE OF CONTENTS**

1. Attendance and Apologies .....	3
2. Confirmation of Previous Minutes.....	3
2.1. Previous Minutes - 05.04.2023 .....	3
3. Actions Arising .....	3
3.1. Outstanding Action Items.....	3
4. Reports .....	4
4.1. Traffic Management Plan.....	4
4.2. Drainage Issues at Rotary Park .....	5
4.3. General Business .....	5
5. Meeting Closed and Next Scheduled Meeting.....	6

Rotary Park User Group Meeting

Wednesday, 14 June 2023

## 1. Attendance and Apologies

**Meeting Opened:** 5:20pm

**Present:** John Haig, Paul Marshall, Jacob Hird, Leanne Mulham, Peter Thompson, Mark Dalzell and Libby Braybon.

**Apologies:** Craig Druitt, Michael Pisasale and Cr Shirlee Burge.

## 2. Confirmation of Previous Minutes

### 2.1. Previous Minutes - 05.04.2023

The minutes of the previous Rotary Park User Group Committee meeting held 5th April 2025 were tabled and read as true and correct record.

## 3. Actions Arising

### 3.1. Outstanding Action Items

The Committee reviewed and updated actions from previous meetings as follows:

- **Action item 052022-1-Closed:** Leanne Mulham quired why this action item is complete when options for new entrances have not been presented to the committee. Mark Dalzell advised that this action item would be put back on the agenda and a report will be presented to the committee next meeting to discuss options for the new entrance. The committee is supportive of a single access point.
- **Action item 052022-2-Open:** Mark Dalzell advised that he has spoken to John Arthur regarding solar panels on top of the stadium building. This project requires grant funding to complete and is unable to commence until funding is available.
- **Action item 042023-2-Closed:** Mark Dalzell advised the committee that Council is unable to provide a second access point on the other side of the oval as this is private land.

Action Ref	Outcomes/Decisions/Actions	Whom	When	Status
<b>Closed</b>				
052022-3	Confirm with Project Manager that all works within the scope are complete regarding Rotary Park funding.	Libby Braybon	Prior to next meeting	Complete
052022-4	Follow up Purchase Order for stadium floor and approve.	Mark Dalzell	ASAP	Complete
052022-5	Quote for resealing the stadium floors.	John Arthur	Prior to next meeting	Complete
052022-6	Contact the company that installed the floor and request they come and inspect the condition of the floor.	Libby Braybon	Prior to next meeting	Complete
042023-1	Council created a traffic control plan at memorial oval, Council to investigate doing one for rotary park.	Mark Dalzell	Prior to next meeting	Complete

## Rotary Park User Group Meeting

Wednesday, 14 June 2023

042023-2	Council to investigate the potential for another access point on the other side of the oval.	Mark Dalzell	Prior to next meeting	Complete
<b>Open</b>				
052022-1	Information to User Group - options for entrances.	Mark Dalzell	Next meeting	
052022-2	Contact John Arthur re solar panels on top of stadium and potential grant funding.	Mark Dalzell	Ongoing	
042023-04	Council to investigate a potential blocked drain at the construction site next door to Rotary Park as it is causing issues with drainage at the facility.	Mark Dalzell	ASAP	
042023-05	Council to investigate dust complaint from construction site next to Rotary Park.	Mark Dalzell	ASAP	
062023-1	Surplus light poles from Hardinge Street oval could potentially be used at Rotary Park. Council will include this in the lighting upgrade project contract.	Mark Dalzell	Prior to next meeting	
062023-2	Instruct Terry Maher to investigate and record lighting levels at Rotary Park.	Mark Dalzell	Prior to next meeting	
062023-3	Additional trees to be planted at Rotary Park to provide a windscreen.	Paul Hussey	Ongoing	
062023-4	Council to investigate drainage (water leaking into changed rooms) and moldy carpet in amenities/change rooms building at Rotary Park.	Paul Hussey	ASAP	
062023-5	Update parking plan to include bus parking and grandstand seating. Mark out the parking prior to the next committee meeting in August.	Mark Dalzell	Prior to next meeting	
062023-6	Council to investigate and resolve drainage issues at Rotary Park.	Mark Dalzell	Ongoing	
062023-7	Ranger to attend Rotary Park between the times of 12:30 - 1:30 to investigate dog issue.	ERC Ranger	Prior to next meeting	

## 4. Reports

### 4.1. Traffic Management Plan

- Mark Dalzell tabled the draft Traffic Management Plan and parking configuration for discussion.
- Mark Dalzell advised the committee that there will be a total of 163 carparks which will be marked out using either power poles or bollards, depending on availability. Mark noted that if parking is still not cohesive after this, Council will look into implementing additional infrastructure like metal discs on the ground which denote each individual car park.
- In addition to the car parking, Mark Dalzell advised the committee that Council will erect 'No Parking' signage around the grounds to deter patrons from parking in certain areas and 'One Way' signage within the carparking facility for the safety of all patrons.

## Rotary Park User Group Meeting

Wednesday, 14 June 2023

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- Paul Marshall requested that Council consider the inclusion of bus parking within the parking configuration. Mark Dalzell noted these changes and will update the Traffic Management Plan accordingly.
- Leanne Mulham requested an update on the potential for a second access point on the other side of the sporting facility to which Mark Dalzell advised that this is private property, and no second access point is available.
- The Committee are supportive of the draft Traffic Management Plan and parking configuration presented by Council. Mark Dalzell advised that the next stage of this project is to mark out the parking prior to the next committee meeting in August.
- Leanne Mulham requested that Council investigate planting additional trees as part of this project to create a wind break. Mark Dalzell advised that Council will include this in next financial year's tree planting program.

#### 4.2. Drainage Issues at Rotary Park

- Mark Dalzell noted that there are outstanding issues with the drainage at Rotary Park and advised the committee that Council will be undertaking maintenance works in an attempt to relieve some of the drainage issues. Following the completion of the winter sporting season, Council will investigate further and execute additional works to resolve the drainage issues.
- The committee requested that a larger culvert under the road be included in the new entrance project to assist with drainage around the facility and noted that the drainage off the ovals needs urgent attention.
- Mark Dalzell in consultation with Joe Gogarty, who has previously investigated solutions to the drainage issues, will present a report to the committee following the 2023 winter sporting season.
- Paul Marshall requested that council investigate a potential blocked drain at the construction site next door as it is causing issues with drainage at the facility. Mark Dalzell noted this action and will follow up with the planning department.

#### 4.3. General Business

##### **Drovers Rugby Club Update**

- Paul Marshall provided an update to the committee regarding the grandstand seating project, the rugby club has applied for additional funding to contribute towards the 5k already committed by Council. The rugby club will know if they were successful in their bid for additional funding in 4 weeks' time.
- Paul Marshall advised the committee of the key system in place for all user groups.

##### **Junior Soccer Club Update**

- Leanne Mulham requested Council to erect larger emergency signage around the oval as the current signage is small and patrons ignore them. Mark Dalzell advised council will erect new signage.

## Rotary Park User Group Meeting

Wednesday, 14 June 2023

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- Leanne Mulham advised the committee and Council that dogs at Rotary Park are becoming an issue. Mark Dalzell advised Leanne that the Council Ranger would attend Rotary Park during the times you specified that residents were witnessed with their dogs on the ovals.

**Wanderers Soccer Club**

- John Haig advised the committee and Council of the maintenance issues on the two soccer pitches, mainly the inability for grass to grow due to workload. John noted that Council's Park & Gardens team worked hard to get the pitches in pristine condition for the commencement of the 2023 season but due to workload, patches of the pitches are muddy and dangerous. Mark Dalzell advised that Council will investigate this further.
- John Haig advised the committee that they will be hosting a 'Working Bee' at Rotary Park and requested that the user groups advise of any waste they wish for the club to remove from the facility.
- Mark Dalzell advised the Soccer Club that Council will look into potential funding for additional seating at the pitches. John Haig, Peter Thompson and Jacob Hird all agreed that their preference is for dug outs on the pitches, not grandstand seating.

**5. Meeting Closed and Next Scheduled Meeting**

Meeting closed at 6:16pm.

Next Meeting is scheduled for the 16th of August 2023.

## **12. REPORTS TO COUNCIL**

### **12.1. EDWARD RIVER GROWTH STRATEGY ADVISORY COMMITTEE**

#### **Edward River Growth Strategy Advisory Committee Terms of Reference**

**Author:** Manager Community & Economic Development

**Authoriser:** Director Corporate Services

#### **RECOMMENDATION**

That Council:

1. Adopts the Terms of Reference for the Edward River Growth Strategy Advisory Committee
2. Appoints Cr Clapham and Cr Sampson as Council's delegates to the Growth Strategy Advisory Committee
3. Endorses an Expressions of Interest process to invite community representatives onto the Growth Strategy Advisory Committee.

#### **BACKGROUND**

Council is establishing a Growth Strategy Advisory Committee to support the development and implementation of the Edward River Growth Strategy.

In order to facilitate key stakeholder engagement in the development and delivery of the Growth Strategy, the Advisory Committee will invite membership from the broader Edward River community.

The Advisory Committee will also comprise of two Councillor delegates.

A Terms of Reference for the Advisory Committee has been drafted to make clear the functions of the Advisory Committee and support interested community members to make an informed decision about expressing interest to become an Advisory Committee member.

#### **ISSUE/DISCUSSION**

A report to Council has been tabled at this meeting to confirm the appointment of an external consultant to drive the development of the Edward River Growth Strategy.

In order to commence the Growth Strategy project, it is important to confirm the Terms of Reference for the Advisory Committee, and to commence recruitment through expressions of interest for the community members of the Advisory Committee.

Councillor Sampson and Councillor Clapham have been suggested as Council's representatives on the Advisory Committee, and the Advisory Committee will be supported by Council's Manager Community & Economic Development.

#### **STRATEGIC IMPLICATIONS**

The establishment of the Edward River Growth Strategy Advisory Committee will assist Council to develop and implement a Growth Strategy for the region that reflects Council's and the community's aspirations.

Inclusion of key community stakeholders on the Committee will assist in developing a shared understanding of growth objectives for the Edward River region, as well as promoting a shared commitment for delivering activities that will support the achievement of those growth objectives.

**COMMUNITY STRATEGIC PLAN**

The Edward River Growth Strategy Advisory Committee will support Council and the community to achieve the following Community Strategic Plan objectives:

1. Shaping the Future
  - 1.1 Pristine natural environment
  - 1.2 Quality built environment
  - 1.3 Enhanced Active and Passive Open Spaces
  - 1.4 Sustainable Waste Management
2. An open and connected community
  - 2.1 Transport and freight links
  - 2.2 Communications and technology links
  - 2.3 Cultural and personal links
3. Encouraging growth through partnerships
  - 3.1 Education
  - 3.2 Economic development
  - 3.3 The Edward River Experience
  - 3.4 Health
4. Delivering community assets and services
  - 4.1 Vibrant villages and towns
  - 4.2 Reliable Water and Sewerage
  - 4.3 Friendly and Supportive Customer service
5. Accountable leadership and responsive administration
  - 5.1 Collaborative and Engaged
  - 5.2 Financially sustainable

**FINANCIAL IMPLICATIONS**

The Advisory Committee has no decision-making powers. Any recommended actions, including those with a financial impact, will be submitted to Council for its consideration and resolution.

**LEGISLATIVE IMPLICATIONS**

There are no legislative implications arising from this report.

**ATTACHMENTS**

A draft Terms of Reference is attached.



# **TERMS OF REFERENCE**

**for**

**EDWARD RIVER COUNCIL**

**GROWTH STRATEGY  
ADVISORY COMMITTEE**

**Terms of Reference for  
Edward River Council Growth Strategy Advisory Committee**

**1 NAME OF THE COMMITTEE**

The name of the committee will be the EDWARD RIVER COUNCIL GROWTH STRATEGY ADVISORY COMMITTEE (the Committee).

**2 OBJECTIVES**

The objective of the Committee have been established by Council to provide industry advice to Council on regional growth for the Edward River region.

**3 ROLES AND RESPONSIBILITIES**

The role of the Committee is to provide a critical link between Council, staff, community, and key stakeholders in the Edward River region.

**4 The Terms of Reference of the Committee are:**

To support Council through:

- informing the development of the Edward River Growth Strategy; and
- supporting the implementation of the Edward River Growth Strategy.

The Committee is a formally appointed advisory committee of Council; members are appointed by Council resolution.

The Committee does not have any executive powers, nor does it have any delegated financial responsibility.

The Committee does not have the authority to delegate tasks to subcommittees.

The Committee is advisory and all decisions constitute recommendations to Council which are presented for consideration to ordinary meetings of Council for resolution.

**5 COMMITTEE MEMBERSHIP**

There will be a minimum of 8 members of the Committee comprising a cross section of representatives from our community with expertise in areas affected by growth including, for example:

- Medical and allied health
- Sporting and recreational
- Arts and culture
- Retail
- Hospitality and tourism
- Agriculture
- Industry
- Transport
- Education
- Social housing and housing
- Community safety and law enforcement
- Service clubs and community groups

**Terms of Reference for  
Edward River Council Growth Strategy Advisory Committee**

- Professional services,

and two (2) Councillor delegates from Edward River Council.

The term of committee membership will be for:

- Councillors – their term of office;
- Community members – for a period concurrent with the term of Council.

The first Committee's term will be for the remaining period of the current Council. Subsequent Committees will be appointed for the term of Council with appointment and first meeting occurring within three (3) months of the election of Council.

## **6 MEMBER RESIGNATION**

Committee members may resign their position at any time during their tenure by advising Council of their wish to do so in writing.

A resigning member may be replaced through a publicly invited Expressions of Interest.

A person nominated to replace a resigning member will be appointed through resolution of Council for a period concurrent with the term of Council.

Previous committee members are not excluded from reappointment.

## **7 COUNCIL STAFF**

The Manager Community & Economic Development will convene meetings, act as Committee secretariat and is ex officio.

## **8 CODE OF CONDUCT**

All members will be bound by the Council's Code of Meeting Practice and Code of Conduct.

Refer: 220111/7.5 Code of Meeting Practice  
220111/7.5 Code of Conduct

## **9 MEETINGS**

Committee meetings are held at least monthly during the development of the Growth Strategy, and approximately quarterly during the implementation stage.

All meetings are hybrid, with the opportunity for attendees to attend virtually or in person.

Extra-ordinary meetings may be convened as required by the Chair.

## **10 QUORUM AND VOTING**

A minimum of five (5) members of the Committee are required to form a quorum for each meeting, including at least one of the Councillor delegates.

Terms of Reference for  
Edward River Council Growth Strategy Advisory Committee

**11 CHAIR**

The Chair of the Committee is elected by the Committee at the commencement of its term by simple majority vote.

**12 CONFLICTS OF INTEREST**

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

Committee members must declare any conflict of interests at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflicts of interest should be appropriately noted in the meeting minutes.

Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

**13 RELEVANT LEGISLATION AND GUIDANCE**

- NSW Local Government Act 1993
- Edward River Council Code of Conduct
- Edward River Council Code of Meeting Practice

**TERMS OF REFERENCE VERSION CONTROL**

Title			
ECM Doc Set ID			
Date Approved by Council			
Responsible Officer			
Version Number	Modified By	Modifications Made	Date modified

## **12.2. CEO NOMINATION TO CEO PERFORMANCE REVIEW COMMITTEE**

### **CEO Nomination to CEO Performance Review Committee**

Author: Senior Governance Advisor

Authoriser: Director Corporate Services

### **RECOMMENDATION**

That Council:

1. Notes Cr Shirlee Burge's withdrawal from the CEO Performance Review Committee
2. Endorses the appointment of the Chief Executive Officer-nominated member of the CEO Performance Review Committee as Cr Shannon Sampson.

### **BACKGROUND**

At its April Meeting, Council adopted an updated CEO Performance Review Policy. This Policy identified that the Review Committee will comprise the Mayor, the Deputy Mayor and two councillors: one nominated by the CEO and one appointed by resolution of Council.

At its May Meeting, Council appointed Cr Shirlee Burge as the CEO nominated councillor and Cr Linda Fawns to the Committee by resolution.

### **ISSUE/DISCUSSION**

At the June Ordinary meeting, Cr Shirlee Burge announced her withdrawal from the CEO Performance Committee.

The CEO has now confirmed his new nomination to the CEO Performance Review Committee is Cr Shannon Sampson.

Council is requested to finalise the appointment of the fourth member of the Review Committee, being Cr Sampson.

### **STRATEGIC IMPLICATIONS**

Nil

### **COMMUNITY STRATEGIC PLAN**

This report contributes to the following theme of the Community Strategic Plan:

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

5.2 Financially sustainable

5.3 Professional Workplace culture

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGISLATIVE IMPLICATIONS**

Section 223 (i) of the *Local Government Act 1993* includes as part of the governing body's role to "determine the process for appointment of the general manager... and to monitor the general

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manager's performance". At Edward River Council the general manager is referred to as the Chief Executive Officer.

**ATTACHMENTS**

## **12.3. MEDIA AND SOCIAL MEDIA POLICIES**

### **Media Policy & Social Media Policy revision**

**Author:** Senior Governance Officer

**Authoriser:** Director Corporate Services

### **RECOMMENDATION**

That Council adopt the updated Edward River Council Media Policy and Edward River Council Social Media Policy.

### **BACKGROUND**

In 2022, the NSW Office of Local Government issued Model Media and Social Media Policies, and encouraged their adoption by local councils.

The attached revised policies have been prepared in alignment with the Model Policies, and updates previous policies adopted by Council in March 2021.

### **ISSUE/DISCUSSION**

The revised draft policies have been provided to councillors for review and information, along with the Model Policies developed by the NSW Office of Local Government on which the updated policies have been based.

### **STRATEGIC IMPLICATIONS**

The proposed revised policies will ensure that Council's media and social media policies are aligned with sector best practice and address corporate risks, while ensuring effective use of media and social media by Council.

The updated policies will ensure all Council officials are provided with clear guidance about their responsibilities in relation to media and social media engagement.

### **COMMUNITY STRATEGIC PLAN**

Updating Council's media and social media policies will support it to achieve the following strategic objectives of the CSP:

2. An open and connected community

2.2 Communications and technology links

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

5.3 Professional Workplace culture

### **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

### **LEGISLATIVE IMPLICATIONS**

There are no direct legislative implications arising from this report.

Some legislative requirements related to privacy management and record keeping are described within the draft policies.

### **ATTACHMENTS**

1. Edward River Council Media Policy - revised draft July 2023

2. Edward River Council Social Media Policy - revised draft July 2023

**DRAFT**

**EDWARD RIVER COUNCIL**

**MEDIA POLICY**

**July 2023**

## Table of Contents

<b>PREFACE</b> .....	3
PART 1 – PRINCIPLES.....	5
PART 2 – ADMINISTRATIVE FRAMEWORK FOR ENGAGEMENT WITH THE MEDIA.....	6
PART 3 – WHO CAN ENGAGE WITH THE MEDIA .....	8
PART 4 – STANDARDS OF CONDUCT WHEN ENGAGING WITH THE MEDIA .....	10
PART 5 – USE OF MEDIA DURING EMERGENCIES .....	11
PART 6 – MEDIA ENGAGEMENT IN THE LEAD UP TO ELECTIONS .....	11
PART 7 – RECORDS MANAGEMENT REQUIREMENTS.....	11
PART 8 - DEFINITIONS .....	12

## PREFACE

### Media – opportunities and challenges

This Media Policy has been developed to ensure that media engagement by Edward River Councillors and staff is consistent, accurate and professional, and enhances Council's reputation.

Effective media engagement assists Council in keeping the community informed, explaining decisions and promoting community confidence in Council and its decisions.

The term "media" used in this policy means print, broadcast and online media used for communicating information to the public, including, but not limited to, newspapers, magazines, internet publishers, radio, and television broadcasters.

The advancement of technology and the development of non-traditional media means that the media now has unprecedented reach and accessibility. Anyone with a computer or hand-held device can access media platforms and actively engage in content which has the potential to be viewed and shared by hundreds of millions of people worldwide.

How Council is portrayed in the media impacts greatly on how the organisation is perceived. Media can be an effective tool to promote Council programs, events, and initiatives. In addition, media can be invaluable in times of crisis or emergency when information needs to be communicated to the public.

Despite its obvious benefits, media also presents a variety of challenges and risks. These include:

- maintaining the accuracy, reliability, and integrity of information
- ensuring confidential information is managed appropriately, and
- an increased exposure and risk to reputation where information is not managed appropriately.

### The development and intent of this policy

This Media Policy has been developed by Edward River Council using the better practice model provided by the NSW Office of Local Government, which was developed in consultation with councils.

The Model Policy provides an exemplar approach by incorporating examples of best practice from the media policies of a diverse range of NSW councils, as well as from Commonwealth and State Government agencies.

The Policy provides a robust framework for the administration and management of Council's interactions with the media. It also sets standards of conduct for all Council officials who are required to interact with media in their official capacity.



At the heart of the Media Policy are the four 'principles' of media engagement. These are:

- Openness
- Consistency
- Accuracy
- Timeliness

These principles, which are expanded upon in Part 1, underpin every aspect of Council's media engagement and Council and Council officials commit to upholding them.

This policy applies to engagement between Council officials and the media. It does not apply to social media use. Edward River Council has developed a separate policy for social media use.

### **Enforcement**

Clause 3.1(b) of the Edward River Council Code of Conduct provides that Council officials must not conduct themselves in a manner that is contrary to Council's policies.

A breach of the policy will be a breach of Council's Code of Conduct.

Concerns or complaints about the administration of Council's engagement with the media should be made to the Chief Executive Officer in the first instance.

## MEDIA POLICY

### PART 1 – PRINCIPLES

1.1 Edward River Council is committed to upholding and promoting the following principles of media engagement:

<b>Openness</b>	We will ensure that we promote an open exchange of information between our Council and the media.
<b>Consistency</b>	We will ensure consistency by all councillors and staff when communicating with the media.
<b>Accuracy</b>	The information we share with the media will be a source of truth for our Council and community and we will prioritise the need to correct inaccuracies when they occur.
<b>Timeliness</b>	We will ensure that we respond to media enquiries in a timely manner.

**PART 2 – ADMINISTRATIVE FRAMEWORK FOR ENGAGEMENT WITH THE MEDIA****Role of the Chief Executive Officer**

2.1 The role of the Chief Executive Officer is to:

- a) delegate to staff members to respond to media enquiries where appropriate
- b) maintain a register of delegated staff
- c) maintain effective oversight of delegated staff
- d) revoke a staff member's status as a delegated staff member when required
- e) where appropriate, ensure that media statements are approved by the Mayor prior to their release
- f) approve media training and/or induction to be provided to delegated staff and/or councillors
- g) ensure that media organisations and their representatives are treated professionally, equally and without bias
- h) provide guidance to councillors approached by the media for comment to avoid communication of misinformation.

**Role of the Media Coordinator**

2.2 The Chief Executive Officer will appoint a Council staff member to be Council's Media Coordinator. The Media Coordinator should be a suitably qualified member of staff.

2.3 The Chief Executive Officer may appoint more than one Media Coordinator.

2.4 The Media Coordinator's role is to:

- a) be the lead point of contact for all media enquiries, requests for interviews, and for requests to film or photograph Council staff, facilities or events for news and current affairs purposes
- b) be responsible for preparing all media statements prior to their release
- c) liaise with relevant staff members within the organisation where appropriate
- d) ensure that media statements are approved by the Chief Executive Officer prior to their release
- e) maintain a record of all media enquiries and responses



**Media Policy**  
Council Policy  
Chief Executive Officer

- f) ensure that media organisations and their representatives are treated professionally, equally and without bias
- g) ensure that media enquiries are dealt with in accordance with agreed service levels
- h) ensure that all media releases are published on Council's website.

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## PART 3 – WHO CAN ENGAGE WITH THE MEDIA

### The Chief Executive Officer

- 3.1 The Chief Executive Officer is the official spokesperson for Council on operational and administrative matters.
- 3.2 The Chief Executive Officer may delegate to other Council staff to speak on their behalf where appropriate (for example, where the delegated staff member has professional expertise regarding the subject matter, or the Chief Executive Officer is unavailable).

### The Mayor

- 3.3 The Mayor is the principal member and spokesperson of the governing body of Council, including representing the views of Council as to its local priorities (section 226(c) of the Local Government Act 1993).
- 3.4 If the Mayor is unavailable, the Deputy Mayor may act as Council's spokesperson.
- 3.5 The Mayor may delegate their role as spokesperson to other councillors where appropriate (for example, where another councillor is best placed to comment, because the issue is of particular interest to them, or it is within their particular area of expertise).

### Councillors

- 3.6 As members of the governing body and as representatives of the community, councillors are free to express their personal views to the media.
- 3.7 When engaging with the media, councillors:
- a) must not purport to speak for Council unless authorised to do so
  - b) must clarify when speaking to the media that they are expressing their personal views as an individual councillor and that they are not speaking for Council (unless authorised to do so)
  - c) must uphold and accurately represent the policies and decisions of Council
  - d) must not disclose Council information unless authorised to do so, and
  - e) must seek information and guidance from the Chief Executive Officer where appropriate before providing comment to the media to ensure they have the most up-to-date and relevant information and have considered reputational or other risks.
- 3.8 In the interests of promoting a positive, safe and harmonious organisational culture, councillors should endeavour to resolve personal differences privately and must not prosecute them publicly through the media.

- 3.9 Where councillors (including the Mayor) become aware of potential issues that could result in media interest, they should provide this information to the Chief Executive Officer as soon as practicable.

**Council Staff**

- 3.10 Council staff must not speak to the media about matters relating to Council unless authorised by the Chief Executive Officer to do so.
- 3.11 If Council staff receive a media enquiry or they are invited to comment to the media on a matter relating to Council, they must refer the enquiry to the Chief Executive Officer or their delegate (in this instance, the Media Coordinator).
- 3.12 Council staff are free to express their personal views to the media on matters that do not relate to Council but in doing so, must not make comments that reflect badly on Council or that may bring it into disrepute.
- 3.13 If authorised to speak to the media, Council staff:
- a) must uphold and accurately represent the policies and decisions of Council
  - b) must not disclose Council information unless authorised to do so by the Chief Executive Officer, and
  - c) must seek information and guidance from the Chief Executive Officer where appropriate before providing comment to the media to ensure they have the most up-to-date and relevant information and have considered reputational or other risks.
- 3.14 Where Council staff become aware of potential issues that could result in media interest, they should provide this information to the Chief Executive Officer as soon as practicable.

**Tone**

- 3.15 All media engagement by Council officials must be conducted in a professional, timely and respectful manner.

**Induction and training**

- 3.16 Council must provide training to Council officials who engage or are authorised to engage with the media.
- 3.17 Media engagement training will be provided to councillors as part of their induction or refresher training, or as part of their ongoing professional development program.

**Councillors' questions about media engagement**

- 3.18 Councillors must direct any questions about their obligations under this policy to the Chief Executive Officer.

**PART 4 – STANDARDS OF CONDUCT WHEN ENGAGING WITH THE MEDIA**

- 4.1 Council officials must comply with Council's Code of Conduct when engaging with the media in an official capacity or in connection with their role as a Council official.
- 4.2 Council officials must not share information or make comments to the media through either direct or indirect mechanisms that:
- a) are defamatory, offensive, humiliating, threatening, or intimidating to other Council officials or members of the public
  - b) contains profane language or is sexual in nature
  - c) constitutes harassment and/or bullying within the meaning of the Code of Conduct, or is unlawfully discriminatory
  - d) is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety
  - e) contains content about Council, Council officials or members of the public that is misleading or deceptive
  - f) divulges confidential Council information
  - g) breaches the privacy of other Council officials or members of the public
  - h) contains allegations of suspected breaches of Council's Code of Conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*
  - i) could be perceived to be an official comment on behalf of Council where they have not been authorised to make such comment
  - j) commits Council to any action
  - k) violates an order made by a court
  - l) breaches copyright
  - m) advertises, endorses, or solicits commercial products or business.

**PART 5 – USE OF MEDIA DURING EMERGENCIES**

- 5.1 During emergencies, such as natural disasters or public health incidents, Council's Local Emergency Management Officer (LEMO) will be responsible for coordinating media releases and statements on behalf of Council in collaboration with the Chief Executive Officer and Media Coordinator.
- 5.2 Councillors, Council staff and other Council officials must not provide comment or information to the media that is inconsistent with official advice issued by Council and any other agency coordinating the emergency response.
- 5.3 Training on media engagement during emergencies will be provided to councillors and relevant staff and other Council officials.

**PART 6 – MEDIA ENGAGEMENT IN THE LEAD UP TO ELECTIONS**

- 6.1 This policy does not prevent the Mayor or Councillors who are candidates at a Council or any other election from providing comment to the media in their capacity as candidates at the election.
- 6.2 Any media comment provided by the Mayor or Councillors who are candidates at a Council or another election must not be provided in an advertisement, newspaper column, or a radio or television broadcast paid for by Council or produced by Council or using any Council resources.

**PART 7 – RECORDS MANAGEMENT REQUIREMENTS**

- 7.1 Media content created and received by Council officials (including councillors) acting in their official capacity is a Council record and may be subject to information access applications made under the *Government Information (Public Access) Act 2009*.
- 7.2 These records must also be managed in accordance with the requirements of the *State Records Act 1998* and Council's approved records management policies and practices.

**PART 8 - DEFINITIONS**

In this Media Policy, the following terms have the following meanings:

<b>Council</b>	means Edward River Council
<b>Council official</b>	means councillors, members of staff and delegates of Council (including members of committees that are delegates of Council)
<b>Councillor</b>	means a person elected to the governing body of Edward River Council as per section 222 of the <i>Local Government Act 1993</i>
<b>Media Coordinator</b>	means a person appointed under clause 1.3 of this policy under delegation by the Chief Executive Officer
<b>Chief Executive Officer</b>	means the General Manager as referenced in the <i>Local Government Act 1993</i>
<b>media</b>	means print, broadcast and online media used for communicating information to the public, including, but not limited to, newspapers, magazines, internet publishers, radio, and television broadcasters
<b>personal information</b>	means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
<b>social media</b>	means online platforms and applications, such as but not limited to social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards, that allow people to easily publish, share and discuss content. Examples of social media platforms include, but are not limited to Facebook, Twitter, Snapchat, LinkedIn, Yammer, YouTube, Instagram, Flickr and Wikipedia

**POLICY VERSION CONTROL**

<b>Title</b>	Media Policy			
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<b>Date Adopted</b>	18 March 2021			
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V2	Director Corporate Services	Updated to reflect OLG Model Media Policy	July 2023	



**DRAFT**

**SOCIAL MEDIA POLICY**  
**July 2023**



Social Media Policy  
Council Policy  
Chief Executive Officer

## CONTENTS

PREFACE .....	3
SOCIAL MEDIA POLICY .....	6
PART 1 – PRINCIPLES .....	6
PART 2 – ADMINISTRATIVE FRAMEWORK FOR COUNCIL’S SOCIAL MEDIA PLATFORMS .....	7
PART 3 – ADMINISTRATIVE FRAMEWORK FOR COUNCILLORS’ SOCIAL MEDIA PLATFORMS.....	10
PART 4 – STANDARDS OF CONDUCT ON SOCIAL MEDIA .....	12
PART 5 – MODERATION OF SOCIAL MEDIA PLATFORMS.....	14
PART 6 – USE OF SOCIAL MEDIA DURING EMERGENCIES.....	18
PART 7 – RECORDS MANAGEMENT AND PRIVACY REQUIREMENTS .....	19
PART 8 – PRIVATE USE OF SOCIAL MEDIA.....	21
PART 9 – CONCERNS OR COMPLAINTS .....	22
PART 10 - DEFINITIONS.....	23

**Social Media Policy**Council Policy  
Chief Executive Officer**PREFACE****Social media – opportunities and challenges**

Social media is at the heart of modern communication. Since its inception, social media has grown in popularity and influence and is now fundamental to not just how people interact with one another, but also to how we work, play and consume information and ideas.

Social media can be broadly defined as *online platforms and applications - such as social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards - that allow people to easily publish, share and discuss content*<sup>1</sup>.

Significantly, one of social media's key features is its unprecedented reach and accessibility, in that anyone with a computer or mobile device can use social media to generate content which has the potential to be viewed and shared by hundreds of millions of people worldwide.

Despite its obvious benefits, social media also presents a variety challenges and risks. These include:

- the emergence of new, harmful forms of behaviour, such as cyber-bullying and trolling
- maintaining the accuracy, reliability and integrity of information disseminated from multiple sources
- organisations can be held liable for content uploaded onto their social media platforms by third parties<sup>2</sup>
- content uploaded in a person's private capacity can adversely affect their employment and cause significant reputational damage to colleagues and employers; and
- rapid innovation can make it difficult to keep pace with emerging technologies and trends.

In addition, potential corruption risks may arise due to social media use. These include:

- customers, development proponents / objectors, tenderers or other stakeholders grooming public officials by behaviours such as 'liking' specific posts, reposting content, or sending personal or private messages
- public officials disclosing confidential or sensitive information
- using social media for sponsorship opportunities, which may unfairly advantage one sponsor over another and lack transparency
- public agencies or officials promoting certain businesses by behaviours such as 'following' them, 'liking' content, or making comments, which may result in those businesses being favoured over others.

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<sup>1</sup> NSW Department of Education. Social media policy: Implementation procedures – November 2018

<sup>2</sup> As confirmed by the High Court of Australia in *Fairfax Media Publications Pty Ltd v. Voller, Nationwide News Pty Limited v. Voller*, and *Australian News Channel Pty Ltd v. Voller*, 8 September 2021.

**Social Media Policy**Council Policy  
Chief Executive Officer**Social media and Local Government in NSW**

As in the federal and state jurisdictions, social media has become an important tool in government and political discourse at the local level. In the context of NSW Local Government, social media has two primary functions:

- a) it is used by councils to interact and share information with their communities in an accessible and often more informal format
- b) it enables councillors to promote their achievements and address their constituents directly about community issues and events in ways that either complement or bypass traditional news and print media.

In addition, many councils use social media as the platform through which they webcast their meetings. This increases transparency by providing visibility of council decision making in real time.

However, councils and councillors are not immune from the challenges associated with social media, which can pose a significant risk both in a legal sense, and in terms of a council's ability to operate in a unified and coordinated way. It is therefore vital that councils have the right policy settings in place so that both councils and councillors can realise the full benefits of social media whilst mitigating risk.

**The development and intent of this policy**

This Social Media Policy has been prepared by Edward River Council using the better practice model provided by the NSW Office of Local Government which was developed in consultation with councils.

The Model Policy provides an exemplar approach by incorporating examples of best practice from the media policies of a diverse range of NSW councils, as well as from Commonwealth and State Government agencies.

The Model Policy provides councils with a robust framework for the administration and management of their social media platforms. It also sets standards of conduct for all council officials who use social media in their official capacity. It has been developed to be fit-for-purpose in a digital age where innovation and emerging trends are the norm.



## Social Media Policy

Council Policy  
Chief Executive Officer

### Content of the Social Media Policy

At the heart of this Social Media Policy are the four 'Principles' of social media engagement.

These are:

- a) Openness
- b) Relevance
- c) Accuracy
- d) Respect

These principles, which are expanded upon in Part 1, should underpin every aspect of Council's social media activity and Council and Council officials should commit to upholding them.

Except for Part 8, this policy applies to Council social media pages and councillor social media pages.



Social Media Policy  
Council Policy  
Chief Executive Officer

## SOCIAL MEDIA POLICY

### PART 1 – PRINCIPLES

- 1.1 Edward River Council is committed to upholding and promoting the following principles of social media engagement:

**Openness** Our social media platforms are places where anyone can share and discuss issues that are relevant to our Council and the community we represent and serve.

**Relevance** We will ensure our social media platforms are kept up to date with informative content about our Council and community.

**Accuracy** The content we upload onto our social media platforms and any other social media platform will be a source of truth for our Council and community and we will prioritise the need to correct inaccuracies when they occur.

**Respect** Our social media platforms are safe spaces. We will uphold and promote the behavioural standards contained in this policy and our Council's Code of Conduct when using our social media platforms and any other social media platform.

### Policy Scope

This policy only applies to Council officials' use of social media in an official capacity or in connection with their role as a Council official. The policy does not apply to personal use of social media that is not connected with a person's role as a Council official (refer 4.1).

**Social Media Policy**Council Policy  
Chief Executive Officer**PART 2 – ADMINISTRATIVE FRAMEWORK FOR COUNCIL'S SOCIAL MEDIA PLATFORMS****Platforms**

- 2.1 Council maintains a presence on the following social media platforms for Edward River Council corporate content where resourcing permits:
- a) Facebook
  - b) LinkedIn
  - c) YouTube
- 2.2 Edward River Council maintains a presence on the following social media platforms for visitor and destination content where resourcing permits:
- a) Facebook
  - b) Instagram
  - c) YouTube
- 2.3 To ensure consistency of content, appropriate use of resources and the appropriate application of this policy, Council will limit the number of social media platforms it uses
- 2.4 Council's social media platforms will specify or provide a clearly accessible link to the 'House Rules' for engaging on the respective platforms.

**Establishment and deletion of Council social media platforms**

- 2.5 A new Council social media platform, or a social media platform proposed by a Council-related entity (for example, a Council committee), can only be established or deleted with the written approval of the Chief Executive Officer or their authorised delegate
- 2.6 Where a Council social media platform is established or deleted in accordance with clause 2.4, the Chief Executive Officer or their delegate may amend clause 2.1 and 2.2 of this policy without the need for endorsement by Council's governing body.

**The role of the Chief Executive Officer**

- 2.7 The role of the Chief Executive Officer is to:
- a) approve and revoke a staff member's status as an authorised user and/or delegate this function to a staff member
  - b) oversee the maintenance of the register of authorised users
  - c) ensure Council adheres to the rules of the social media platform(s)
- 2.8 The Chief Executive Officer is an authorised user for the purposes of this policy.

**Social Media Policy**Council Policy  
Chief Executive Officer**Role of the Social Media Coordinator**

- 2.9 The Chief Executive Officer will appoint a member of Council staff to be Council's Social Media Coordinator. The Social Media Coordinator should be a senior and suitably qualified member of staff
- 2.10 The Chief Executive Officer may appoint more than one Social Media Coordinator
- 2.11 The Social Media Coordinator's role is to:
- a) develop and/or approve the training and/or induction to be provided to authorised users
  - b) maintain the register of authorised users as approved by the Chief Executive Officer
  - c) maintain effective oversight of authorised users
  - d) moderate Council's social media platforms in accordance with Part 5 of this policy
  - e) ensure Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media (see clauses 7.1 to 7.4 of this policy)
  - f) ensure Council adheres to the rules of the social media platform(s)
  - g) ensure Council's social media platforms are set up and maintained in a way that maximises user friendliness and any technical problems are resolved promptly
- 2.12 The Social Media Coordinator is an authorised user for the purposes of this policy

**Authorised users**

- 2.13 Authorised users are members of Council staff who are authorised by the Chief Executive Officer to upload content and engage on social media on Council's behalf
- 2.14 Authorised users should be members of Council staff who are responsible for managing, or have expertise in, the events, initiatives, programs or policies that are the subject of the social media content
- 2.15 The Chief Executive Officer will appoint authorised users when required
- 2.16 An authorised user will receive a copy of this policy and induction training on social media use and Council's obligations before uploading content on Council's behalf
- 2.17 The role of an authorised user is to:
- a) ensure, to the best of their ability, that the content they upload onto social media platforms is accurate
  - b) correct inaccuracies in Council-generated content

**Social Media Policy**Council Policy  
Chief Executive Officer

- c) keep Council's social media platforms up to date
  - d) moderate Council's social media platforms in accordance with Part 5 of this policy
  - e) ensure Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media (see clauses 7.1 to 7.4 of this policy)
- 2.18 When engaging on social media on Council's behalf (such as, but not limited to, on a community social media page), an authorised user must identify themselves as a member of Council staff but they are not obliged to disclose their name or position within Council
- 2.19 Authorised users must not use Council's social media platforms for personal reasons.

**Administrative tone**

- 2.20 Authorised users upload content and engage on social media on Council's behalf. Authorised users must use language consistent with that function and avoid expressing or appearing to express their personal views when undertaking their role
- 2.21 Authorised users may use more personal, informal language when engaging on Council's social media platforms, for example when replying to comments.

**Register of authorised users**

- 2.22 The Social Media Coordinator will maintain a register of authorised users. This register is to be reviewed annually to ensure it is fit-for-purpose.

**Ceasing to be an authorised user**

- 2.23 The Chief Executive Officer may revoke a staff member's status as an authorised user, if:
- a) the staff member makes such a request
  - b) the staff member has not uploaded content onto any of Council's social media platforms in the last 12 months
  - c) the staff member has failed to comply with this policy
  - d) the Chief Executive Officer is of the reasonable opinion that the staff member is no longer required or suitable to be an authorised user.

**Social Media Policy**Council Policy  
Chief Executive Officer**PART 3 – ADMINISTRATIVE FRAMEWORK FOR COUNCILLORS' SOCIAL MEDIA PLATFORMS**

- 3.1 For the purposes of this policy, councillor social platforms are not Council social media platforms. Part 2 of this policy does not apply to councillors' social media platforms
- 3.2 Councillors are responsible for the administration and moderation of their own social media platforms (in accordance with Parts 3 and 5 of this policy) and ensuring they comply with the record keeping obligations under the *State Records Act 1998* (see clauses 7.1 to 7.4 of this policy) and Council's records management policy in relation to social media
- 3.3 Clause 3.2 also applies to councillors in circumstances where another person administers, moderates, or uploads content onto their social media platform
- 3.4 Councillors must comply with the rules of the platform when engaging on social media.

**Induction and training**

- 3.5 Councillors who engage or intend to engage, on social media in their capacity as a councillor must receive induction training on social media use. Induction training can be undertaken either as part of the councillor's initial induction program or as part of their ongoing professional development program.

**Identifying as a Councillor**

- 3.6 Councillors who intend to engage on social media in their capacity as a councillor must identify themselves on their social media platforms in the following format:  
*Councillor "First Name and Last Name"*
- 3.7 A councillor's social media platform must include a profile photo which is a clearly identifiable image of the councillor
- 3.8 If a councillor becomes or ceases to be the Mayor, Deputy Mayor, or the holder of another position (for example, Chairperson of a committee), this must be clearly stated on the councillor's social media platforms and updated within 48 hours of a change in circumstances.

**Other general requirements for Councillors' social media platforms**

- 3.9 Councillor social media platforms must specify or provide a clearly accessible link to the 'House Rules' for engaging on the platform

**Social Media Policy**Council Policy  
Chief Executive Officer

- 3.10 A councillor's social media platform must include a disclaimer to the following effect:  
*"The views expressed and comments made on this social media platform are my own and not that of Edward River Council".*
- 3.11 Despite clause 3.10, Mayoral or Councillor media releases and other content that has been authorised according to Council's media and communications protocols may be uploaded onto a councillor's social media platform
- 3.12 Councillors may upload publicly available Council information onto their social media platforms
- 3.13 Councillors may use more personal, informal language when engaging on their social media platforms.

**Councillor queries relating to social media platforms**

- 3.14 Questions from councillors relating to their obligations under this policy or managing records on social media may be directed to the Chief Executive Officer in the first instance, in accordance with Council's councillor requests protocols.

**Other social media platforms administered by councillors**

- 3.15 A councillor must advise the Chief Executive Officer of any social media platforms they administer on which content relating to Council or Council officials is, or is expected to be, uploaded
- 3.16 The councillor must provide such advice to the Chief Executive Officer within 28 days of becoming a Councillor.

**Social Media Policy**Council Policy  
Chief Executive Officer**PART 4 – STANDARDS OF CONDUCT ON SOCIAL MEDIA**

- 4.1 This policy only applies to Council officials' use of social media in an official capacity or in connection with their role as a Council official. The policy does not apply to personal use of social media that is not connected with a person's role as a Council official
- 4.2 Council officials must comply with Council's Code of Conduct when using social media in an official capacity or in connection with their role as a Council official
- 4.3 Council officials must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
- a) is defamatory, offensive, humiliating, threatening or intimidating to other Council officials or members of the public
  - b) contains profane language or is sexual in nature
  - c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
  - d) is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety
  - e) contains content about Council, Council officials or members of the public that is misleading or deceptive
  - f) divulges confidential Council information
  - g) breaches the privacy of other Council officials or members of the public, including the use of photographic images without permission
  - h) contains allegations of suspected breaches of Council's Code of Conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*
  - i) could be perceived to be an official comment on behalf of Council where they have not been authorised to make such comment
  - j) commits Council to any action
  - k) violates an order made by a court
  - l) breaches copyright
  - m) advertises, endorses or solicits commercial products or business
  - n) constitutes spam
  - o) is in breach of the rules of the social media platform.



**Social Media Policy**

Council Policy  
Chief Executive Officer

- 4.4 Council officials must:
- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
  - b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified
  - c) obtain express consent from individuals to use their image after confirming with them what their picture will be used for and who will be able to see it
  - d) exercise caution when sharing, liking, and/or retweeting content as this can be regarded as an endorsement and/or publication of the content
- 4.5 Council officials must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part
- 4.6 Councillors must uphold and accurately represent the policies and decisions of Council's governing body but may explain why they voted on a matter in the way that they did. (see section 232(1)(f) of the Local Government Act 1993).

**Social Media Policy**Council Policy  
Chief Executive Officer**PART 5 – MODERATION OF SOCIAL MEDIA PLATFORMS**

Council and Council officials should be aware that they may be considered a 'publisher' of any content uploaded onto a social media platform they administer, including content that:

- is uploaded by a third party; and/or
- appears on their social media platform because they have 'liked', 'shared', or 'retweeted' the content, or similar

- 5.1 Council officials who are responsible for the moderation of Council's or councillors' social media platforms may remove content and 'block' or ban a person from those platforms. Such actions must be undertaken in accordance with this Part
- 5.2 For the purposes of this Part, 'social media platform' and 'platform' means both Council's and councillors' social media platforms.

**House Rules**

- 5.3 Social media platforms must state or provide an accessible link to the 'House Rules' for engaging on the platform
- 5.4 At a minimum, the House Rules should specify:
- a) the principles of social media engagement referred to in clause 1.1 of this policy
  - b) the type of behaviour or content that will result in that content being removed or 'hidden', or a person being blocked or banned from the platform
  - c) the process by which a person can be blocked or banned from the platform and rights of review
  - d) a statement relating to privacy and personal information (see clause 7.4 of this policy)
  - e) when the platform will be monitored (being weekdays 8:30am – 5pm, during Council's business days)
  - f) that the social media platform is not to be used for making complaints about Council or Council officials
- 5.5 For the purposes of clause 5.4(b), third parties engaging on social media platforms must not post or share comments, photos, videos, electronic recordings or other information that:
- a) is defamatory, offensive, humiliating, threatening or intimidating to Council officials or members of the public
  - b) contains profane language or is sexual in nature

**Social Media Policy**Council Policy  
Chief Executive Officer

- c) constitutes harassment and/or bullying within the meaning of the Model Code of Conduct for Local Councils in NSW, or is unlawfully discriminatory
- c) contains content about Council, Council officials or members of the public that is misleading or deceptive
- d) breaches the privacy of Council officials or members of the public
- e) contains allegations of suspected breaches of Council's Code of Conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*
- f) violates an order made by a court
- g) breaches copyright
- h) advertises, endorses or solicits commercial products or business
- i) constitutes spam
- j) would be in breach of the rules of the social media platform.

**Removal or 'hiding' of content**

- 5.6 Where a person uploads content onto a social media platform that, in the reasonable opinion of the moderator, is of a kind specified under clause 5.5, the moderator may remove or 'hide' that content
- 5.7 Prior to removing or 'hiding' the content, the moderator must make a record of it (a screenshot)
- 5.8 If the moderator removes or 'hides' the content under clause 5.6, they must, where practicable, notify the person who uploaded the content that it has been removed and the reason(s) for its removal and their rights of review
- 5.9 A person may request a review of a decision by a moderator to remove or 'hide' content under clause 5.6. The request must be made in writing to the Chief Executive Officer and state the grounds on which the request is being made
- 5.10 Where a review request is made under clause 5.9, the review is to be undertaken by the Chief Executive Officer or a member of staff nominated by the Chief Executive Officer who is suitably qualified and who was not involved in the decision to remove or 'hide' the content.

**Social Media Policy**Council Policy  
Chief Executive Officer**Blocking or banning**

- 5.11 If a person uploads content that is removed or 'hidden' under clause 5.6 of this policy on three occasions, that person may be blocked or banned from all Council social media platforms
- 5.12 A person may only be blocked or banned from a Council social media platform with the approval of the Chief Executive Officer
- 5.13 This clause does not apply to blocking or banning a person from a councillor's social media platform
- 5.14 Prior to blocking or banning a person from a social media platform, the person must, where practicable, be advised of the intention to block or ban them from all platforms and be given a chance to respond. Any submission made by the person must be considered prior to a determination being made to block or ban them
- 5.15 The duration of the block or ban is to be determined by the Chief Executive Officer, or in the case of a councillor's social media platform, the councillor
- 5.16 Where a determination is made to block or ban a person from all Council social media platforms, the person must, where practicable, be notified in writing of the decision and the reasons for it. The written notice must also advise the person which social media platforms they are blocked or banned from, the duration of the block or ban, and inform them of their rights of review
- 5.17 Despite clauses 5.11 to 5.15, where a person uploads content of a kind referred to under clause 5.5, and the moderator is reasonably satisfied that the person's further engagement on the social media platform poses a risk to health and safety or another substantive risk (such as the uploading of defamatory content), an interim block or ban from all platforms may be imposed on the person immediately for a period no longer than 28 days
- 5.18 A person who is blocked or banned from all platforms under clause 5.17 must, where practicable, be given a chance to respond to the interim block or ban being imposed. Any submission made by the person must be considered when determining whether the interim block or ban is to be removed or retained under clauses 5.11 to 5.15
- 5.19 A person may request a review of a decision to block or ban them from a Council social media platform. The request must be made in writing to the Chief Executive Officer and state the grounds on which the request is being made
- 5.20 Where a review request is made under clause 5.18, the review is to be undertaken by the Chief Executive Officer or a member of staff nominated by the Chief Executive Officer who is suitably qualified and who was not involved in the decision to block or ban the person. Where the decision to block or ban the person was made by the Chief Executive Officer, the review must be undertaken by



**Social Media Policy**

Council Policy  
Chief Executive Officer

another senior and suitably qualified member of staff who was not involved in the decision

- 5.21 Where a person that is the subject of a block or ban continues to engage on Council social media platform(s) using an alternative social media account, profile, avatar, etc., a moderator may block or ban the person from the platform(s) immediately. In these circumstances, clauses 5.11 to 5.19 do not apply.

**Social Media Policy**

Council Policy  
Chief Executive Officer

**PART 6 – USE OF SOCIAL MEDIA DURING EMERGENCIES**

- 6.1 During emergencies, such as natural disasters or public health incidents, Council's Local Emergency Management Officer (LEMO) will be responsible for coordinating and providing emergency-related content in collaboration with the Social Media Coordinator for publication on Council's social media platforms
- 6.2 To ensure consistent messaging both during and after an emergency, authorised users and Council officials must not upload content onto Council's or their own social media platforms which contradicts advice issued by the agency coordinating the emergency response, or agencies supporting recovery efforts
- 6.3 Training on social media use during emergencies should be included in training and/or induction provided to authorised users and councillors.

**PART 7 – RECORDS MANAGEMENT AND PRIVACY REQUIREMENTS****Records management**

- 7.1 Social media content created, sent and received by Council officials (including councillors) acting in their official capacity is a Council record and may constitute open access information or be subject to an information access application made under the *Government Information (Public Access) Act 2009*. These records must be managed in accordance with the requirements of the *State Records Act 1998* and Council's approved records management policies and practices
- 7.2 Council officials and councillors must not destroy, alter or remove social media content unless authorised to do so. If there is a need to alter or remove social media content, it must be done in accordance with this policy, and in consultation with Council's records manager, and must comply with the requirements of the *State Records Act 1998*
- 7.3 When/if a councillor's term of office concludes, the councillor must contact the Chief Executive Officer to provide advice on the management and transfer of records of social media content created during their term of office and comply with the requirements of the *State Records Act 1998*
- 7.4 In fulfilling their obligations under clauses 7.1 to 7.3, Council officials should refer to any guidance issued by the State Archives and Records Authority of NSW relating to retention requirements for Councils' and councillors' social media content<sup>3</sup>.

**Privacy considerations and requirements**

- 7.5 Social media communications are in the public domain. Council officials should exercise caution about what personal information, if any, they upload onto social media
- 7.6 The *Privacy and Personal Information Protection Act 1998* applies to the use of social media platforms by Council and councillors. To mitigate potential privacy risks, Council officials will:
- a) advise people not to provide personal information on Council's social media platforms
  - b) inform people if any personal information they may provide on social media platforms is to be used for official purposes, including photographic images
  - c) moderate comments to ensure they do not contain any personal information

<sup>3</sup> See State Archives and Records Authority of NSW 'Government Recordkeeping / Advice and Resources / Local Government' and 'Social media recordkeeping for councillors'



**Social Media Policy**

Council Policy  
Chief Executive Officer

- d) advise people to contact Council or councillors through alternative channels if they have personal information they do not want to disclose in a public forum
- 7.7 Council officials must ensure they comply with the *Health Records and Information Privacy Act 2002* when engaging on and/or moderating social media platforms. In fulfilling their obligations, Council officials should refer to any guidance issued by the Information and Privacy Commission of NSW, such as, but not limited to, the Health Privacy Principles.

**Social Media Policy**Council Policy  
Chief Executive Officer**PART 8 – PRIVATE USE OF SOCIAL MEDIA**

Activities on social media websites are public activities. Even though privacy settings are available, content can still be shared and accessed beyond the intended recipients.

The terms and conditions of most social media sites state that all content becomes the property of the site on which it is posted<sup>4</sup>.

**What constitutes 'private' use?**

- 8.1 For the purposes of this policy, a Council official's social media engagement will be considered 'private use' when the content they upload:
- a) is not associated with, or does not refer to, Council, any other Council officials, contractors, related entities or any other person or organisation providing services to or on behalf of Council in their official or professional capacities, and
  - b) is not related to or does not contain information acquired by virtue of their employment or role as a Council official
- 8.2 If a Council official chooses to identify themselves as a Council official, either directly or indirectly (such as in their user profile), then they will not be deemed to be acting in their private capacity for the purposes of this policy.

**Use of social media during work hours**

- 8.3 Council staff may only access and engage on social media in their private capacity while at work during breaks
- 8.4 Council staff who access and engage on social media in their private capacity during work hours must ensure it does not interfere with the performance of their official duties.

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<sup>4</sup> Social Media: Guidance for Agencies and Staff (Government of South Australia) – page 9



**Social Media Policy**

Council Policy  
Chief Executive Officer

**PART 9 – CONCERNS OR COMPLAINTS**

- 9.1 Concerns or complaints about the administration of Council's social media platforms should be made to Council's Chief Executive Officer in the first instance
- 9.2 Complaints about the conduct of Council officials (including councillors) on social media platforms are to be directed to the Chief Executive Officer
- 9.3 Complaints about a Chief Executive Officer's conduct on social media platforms may be directed to the Mayor.



## Social Media Policy

Council Policy  
Chief Executive Officer

### PART 10 - DEFINITIONS

In this Social Media Policy, the following terms have the following meanings:

<b>Council</b>	means Edward River Council.
<b>Councillor</b>	means a person elected to the governing body of Edward River Council as per section 222 of the Local Government Act 1993
<b>authorised user</b>	members of Council staff who are authorised by the Chief Executive Officer to upload content and engage on Council's social media platforms on Council's behalf
<b>Council official</b>	councillors, members of staff and delegates of Council (including members of committees that are delegates of Council)
<b>minor</b>	for the purposes of clause 4.4(b) of this policy, is a person under the age of 18 years
<b>personal information</b>	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
<b>Social Media Coordinator</b>	Council's Social Media Coordinator appointed under clause 2.9 of this policy
<b>social media</b>	online platforms and applications - such as but not limited to social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards - that allow people to easily publish, share and discuss content. Examples of social media platforms include, but are not limited to Facebook, LinkedIn, YouTube and Instagram.

**Social Media Policy**

Council Policy  
Corporate Services  
Director Corporate Services

**POLICY VERSION CONTROL**

<b>Title</b>	Social Media Policy			
<b>ECM Doc Set ID</b>	143274			
<b>Date Adopted</b>	18 March 2021			
<b>Council Minute No.</b>	2021/23			
<b>Next Revision</b>	2024/25			
<b>Responsible Officer</b>	Chief Executive Officer			
<b>Version Number</b>	<b>Modified By</b>	<b>Modifications Made</b>	<b>Date modified</b>	<b>Council Minute Number</b>
V2	Director Corporate Services	Updated to reflect OLG Model Social Media Policy	July 2023	

## **12.4. ALCOHOL FREE ZONE REINSTATEMENT**

### **Alcohol Free Zone**

**Author: Manager Development Services**

**Authoriser: Director Infrastructure**

### **RECOMMENDATION**

That Council:

1. Establish an Alcohol Free Zone on all public roads and public carparks within the areas outlined in red on the map titled "Proposed Alcohol Free Zone" in the attachment to this report to operate for a period of four years, commencing at 12am, 1 August 2023, in accordance with section 644B of the Local Government Act,
2. Place a notice in the local media advising of Council's decision in accordance with section 644C of the Local Government Act, and
3. Advise all Licensees within or adjoining the proposed Alcohol Free Zone, the Edward River Liquor Accord, the Deniliquin Aboriginal Land Council, Yarkuwa Indigenous Knowledge Centre and the NSW Police , of Council's decision.

### **BACKGROUND**

At its meeting held on 16 May 2023, Council resolved to:

1. Prepare a proposal for the re-establishment of an Alcohol Free zone in the area outlined in red in Attachment 1 of this report showing the proposed AFZ 2023-27, in accordance with Section 644A of the Local Government Act
2. Undertake public consultation of the proposal to establish the Alcohol Free zone within the areas outlined in red in Attachment 1 of this report showing the Proposed AFZ 2024-2027, in accordance with Section 644A of the Local Government Act and the Ministerial Guidelines on Alcohol Free zone (February 2009), and
3. Upon completion of this public consultation, consider a further report on the proposal to establish the Alcohol Free zone.

Council has now completed the community consultation and it is recommended that the Alcohol Free Zone (AFZ) be re-established. Attachment 1 shows the extent of the AFZ.

### **ISSUE/DISCUSSION**

#### Public Consultation

Public Consultation was undertaken in accordance with section 644A of the Local Government Act (the Act) and included the following:

- Notice in the Deniliquin Pastoral Times and on Council's website inviting submissions from 2 June 2023 to 6 July 2023. - One submission was received. The submission was an enquiry from an individual seeking clarification as to whether the AFZ applied to Waring Gardens and the new forecourt of the Town Hall. The submitter was advised that the AFZ applies only to road related areas and carparks. As the submission was an enquiry which has been satisfactorily responded to there is no further consideration required.
- All licensees who border on or adjoin the proposed AFZ , the Edward River Liquor Accord, the Deniliquin Local Aboriginal Land Council, Yarkuwa Indigenous Knowledge Centre and the NSW Police were notified of the proposal on 2 June 2023 and were requested to

respond by the 6 July 2023 . A response was received from NSW Police noting that they support the re-establishment of the alcohol free zone within the existing boundaries and updating of the signage to enforce the dates for continued operation of the zone.

#### Future Actions

Section 644 B of the Act provides after complying with the procedures set out in sections 644 and 644A, the Council may adopt a proposal to establish an AFZ and must publish a notice in the newspaper declaring that the AFZ has been re-established and specify the period for which it will operate. It cannot operate earlier than 7 days after the first publication of the notice in the newspaper (s644C of the Act). The guidelines recommend that interested parties should be notified of Councils decision including the NSW Police, affected liquor licensees and club secretaries and other organisations advised of the original proposal. It is proposed that the AFZ will be notified in the local media on 21 July 2023 and come into force on 1 August 2023

### **STRATEGIC IMPLICATIONS**

There are no strategic implications regarding this matter.

### **COMMUNITY STRATEGIC PLAN**

#### 1. Shaping the Future

##### 1.3 Enhanced Active and Passive Open Spaces

### **FINANCIAL IMPLICATIONS**

There are no financial implications regarding this matter beyond updating information on the relevant signs.

### **LEGISLATIVE IMPLICATIONS**

The implementation of Alcohol Free Zones must comply with the Local Government Act.

### **ATTACHMENTS**

#### 1. Locations of Alcohol Free Zones.

Attachment 1 - Alcohol Free Zone



## **12.5. DEVELOPMENT SERVICES ACTIVITY REPORT JUNE 2023**

**Author:** Manager Development Services

**Authoriser:** Director Infrastructure

### **RECOMMENDATION**

That Council receives and notes the June 2023 Development Services Activity Report.

### **BACKGROUND**

Included in Attachment 1 is the Development Services Report. The report includes details of the following delivery functions:

- Development Applications received,
- S68 LGA Applications received,
- Development Applications by type,
- Processing times for applications,
- Value and number of applications,
- Planning Certificate and Drainage Diagram Applications and processing times,
- Progress inspections details,
- Swimming pool inspections,
- Animal control activities,
- Ranger enforcement activities,
- Public health activity, and
- Planning activity.

### **ISSUE/DISCUSSION**

The report details the delivery of regulatory and operational services of the Development Services team. There are no specific issues/matters for discussion arising from this report.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications arising from this report.

### **COMMUNITY STRATEGIC PLAN**

The services provided by the Development Services team, as reported in the Development Services activity report, will support Council and the community to achieve the following Community Strategic Plan objectives:

1. Shaping the Future,
- 1.2 - Quality Built Environment.

### **FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

**LEGISLATIVE IMPLICATIONS**

The regulatory functions of the Development Services Team are consistent with the *Environmental Planning & Assessment Act*, *Local Government Act*, *Swimming Pools Act*, *Public Health Act* and *Companion Animals Act*.

**ATTACHMENTS**

1. Monthly Report for June 2023

**Attachment 1 - ECM\_260574\_v1\_Environment Report June 2023**



Development Activity					
Applications received – June 2023					
Application	Property Description	Proposal	Date Received	Date Approved	Status
DA2023/0043	Lot 5 DP 1272156, 5 Robert Walter Place, Deniliquin	New Dwelling and Garage	6/6/23	-	Under assessment
DA2023/0044	Lot 21 DP 1111874, 288 River Street, Deniliquin	Mooring	13/6/23	-	Under assessment
CC2023/0030	Lot B DP 375509, 362 Herriott Street, Deniliquin	Residential Shed	13/6/23	16/6/23	Approved
DA2023/0045	Lot 2 DP 259433, 99 Edwardes Street, Deniliquin	Demolition of Existing Dwelling	14/6/23	29/6/23	Approved
DA2023/0046 CC2023/0031	Lot 7 & 8, Sec 108, DP 758782, 204-212 Yarra Steet, Deniliquin	Residential Shed	29/6/23	-	Under assessment
CC2023/0032	Lot 1 DP 1235420, 227 Cemetery Road, Deniliquin	Stage 3 – Warehouse	29/6/23	-	Under assessment
Complying Development Certificates					
-	-	-	-	-	-
S68 Applications					
LG2023/0030	Lot 173 DP 1238664, 586-610 Poitiers Street, Deniliquin	Water Supply & Sewerage Work, Stormwater Drainage Work	2/6/23	6/6/23	Approved



LG2023/0031	Lot 10 DP 1062710, 164 Henry Street, Deniliquin	Connect to Council Sewer Main	2/6/23	9/6/23	Approved
LG2023/0032	Lot 5 DP 1272156, 5 Robert Walter Place, Deniliquin	Water Supply & Sewerage Work, Stormwater Drainage Work	6/6/23	-	Under assessment
LG2023/0033	Lot 1 DP 1132408, 1 Butler Street, Deniliquin (Site 53)	Flyover	13/6/23	28/6/23	Approved

#### Development Applications by Type for June 2023

Development Type	New Dwellings	Dwelling Alts/Additions/sheds	Commercial/Industrial	Other	Subdivision	No of lots resulting
Number	1	2	1	2	0	0
Totals 2023	15	23	8	19	3	7

#### Processing Times for June 2023

Application Type	* Mean Gross Days	** Mean Net Days
DA	56	36
Mod (\$4.55) of DA & DA/CC	-	-
CDC	-	-
CC	40	35
S68 Applications	26	26

\* Mean gross days = Total days from lodgment to determination    \*\* Mean Net Days = Total days less Stop the Clock days



Value and Number of Applications Determined 2022 and 2023										
Month	DA 2022	DA 2023	CDC 2022	CDC 2023	CC 2022	CC 2023	LG 2022	LG 2023	Value 2022	Value 2023
January	3	4	2	0	1	3	2	4	\$870,000	\$148,890
February	14	8	1	1	9	5	2	7	\$6,541,633	\$1,631,720
March	13	6	0	1	8	5	5	7	\$1,968,289	\$4,340,700
April	8	4	0	0	2	3	0	0	\$1,891,000	\$194,595
May	9	3	1	2	6	2	6	5	\$3,376,895	\$2,248,880
June	13	14	0	0	8	9	3	7	\$277,646	\$4,043,451
July	3		0		3		2		\$369,101	
August	10		1		4		6		\$660,693	
September	7		0		1		3		\$894,000	
October	11		0		8		4		\$2,206,916	
November	10		0		9		7		\$2,002,070	
December	8								\$3,894,506	
<b>TOTALS</b>	<b>109</b>	<b>39</b>	<b>5</b>	<b>4</b>	<b>59</b>	<b>27</b>	<b>40</b>	<b>30</b>	<b>\$24,952,749.00</b>	<b>\$12,609,236.00</b>

Note: numbers of application determined does not include modifications and applications determined by private certifiers. Value of application determined does not include the value of work for Construction Certificates and s68 applications.

#### Section 10.7 Certificates/Sewerage Drainage Diagrams

Planning certificates	15
Sewerage drainage diagrams	11
Average processing time	1
Maximum time for processing	8



Inspections for June													
Site	Footing / Pier	Slab	Frame	Hot & Cold	Wet Area	Sewer / Septic	Storm Water	Final	Food Van	Trade Waste Site Visit	Meetings	Murrumbidgee Council	Total
13	4	5	3	4	1	3	1	8	0	0	0	0	42

Swimming Pool Inspection Program				
Month	1 <sup>st</sup> Inspection	2 <sup>nd</sup> Inspection	3 <sup>rd</sup> Inspection	TOTAL 2023
June	6	0	-	40

Animal Control /Ranger Activities											
Ranger's Report – June 2023											
Companion Animals											
Seized / Surrendered	Released to Owner prior to impounded	In Pound	Released to Owner after impounded	Re-Homed	Euthanised	Stolen or escaped	Still In Pound	Declared Dangerous Menacing	Micro Chipped	Registered	Fines Issued
25	13	12	3	2	6	0	1	0	6	13	0
					Feral cats/abandoned kittens unable to be rehomed						

**Note:** The figures contained in this report relate to animal control activities carried out in the current month being reported on. Rehoming/Return to owner etc may occur in a subsequent month and are therefore not captured in this reporting period.

Clean Up		Parking		Impoundment		
Notices Sent	Illegal Dumping	Patrols	Fines	Vehicles	Live Stock	Euthanised
0	0	6	0	0	0	0



Dog Attacks		
Date	Details	Outcome
-	-	-

Public Health Activities	
Details	
Arbovirus Monitoring Program	The Arbovirus Monitoring Program has been completed for the 2022/23 season. Representatives from the Public Health Unit met with Council staff this month to discuss priorities for future mosquito monitoring plans and any suggestions that Council may have for improvements to future programs. NSW Health expressed appreciation to Council for the proactive approach it has taken particularly in providing promotional resources to the community events, schools and local groups.
Food Premises Inspection Program	Food Premises inspections for all medium and high risk food premises have been completed in line with the NSW Food Authority Memorandum of Understanding. The 2022/23 annual Food Premises Inspection Activity Report is required to be provided to the NSW Food Authority by 28 July 2023.

Environmental Planning Activities
<p><b>Local Heritage Fund 2023/24</b></p> <p>Applications are now open for Edward River Council's Local Heritage Fund 2023/2024. The program is jointly funded by Council and Heritage NSW.</p> <p>The aim of the fund is to support minor heritage works in the Edward River local government area. Funding is directed towards the general preservation, enhancement or documenting of heritage within the Edward River local government area with an emphasis on projects within the villages and/or Deniliquin town centre. All projects must be completed by 30 April 2024 to be funded.</p> <p>The closing date for applications is 19 July 2023</p>

**Exhibition of Planning Proposal Local Environmental Plan Consolidation**

Exhibition of the Planning Proposal for the Consolidation of the Local Environmental Plans commenced on Friday 7 July 2023. The Proposal was exhibited in the local print media, Council's website and placed on display at the Customer Service Centre. Notices were also provided to affected landowners.  
The closing date for submissions is 8 August 2023.

## **12.6. UPDATE ON RFS ASSETS**

**Author: Acting Chief Financial Officer**

**Authoriser: Chief Executive Officer**

### **RECOMMENDATION**

That Council:

1. Note the latest correspondence received on the ownership and recognition of RFS assets
2. Agree with the proposed response to the CMA correspondence
3. Agree to write to Helen Dalton MP, requesting her support with the private members bill

### **BACKGROUND**

Councils financial statements for 2021-22 received a qualified audit report from Audit Office New South Wales due to the non-recognition of rural fire-fighting equipment. Since then, both Local Government New South Wales (LGNSW) and the Country Mayors Association (CMA) have written to Councils providing status updates.

### **ISSUE/DISCUSSION**

The correspondence from LGNSW and CMA is enclosed as attachment 1, and attachment 2 respectively.

#### **LGNSW Correspondence**

In a letter to all Councils in NSW, Local Government NSW consider the Auditor General is incorrect in her assessment that councils are non-compliant with the Australian Accounting Standards if they decided not to record these assets. They are also disappointed that OLG is now requesting many councils across NSW to provide them with further information on strategies to respond to the position that RFS mobile assets are not assets of the RFS.

#### **CMA Correspondence**

In their letter to all NSW Council Mayors, advise the member for Northern Tablelands Adam Marshall introduced a private member's bill into State Parliament on 20 June 2023, amending the Rural Fires Act 1997, to transfer the ownership of NSW Rural Fire Service (RFS) vehicles, fire trucks and buildings from local councils back to the State Government. His media statement is included in the letter. The full text of the bill will now be prepared and it will be scheduled for debate in Parliament at a later date.

The CMA Executive has asked Councils please respond to the following two questions:

1. Does your Council support the private members bill – YES or NO
2. Please provide the total value of depreciation expenses for your RFS assets required in your annual financial accounts. This should include all RFS assets which if vested with RFS would no longer require recognition in your accounts

Our proposed response to the questions is:

1. Yes
2. If Council were to include all RFS assets in its financial statements, the amount of depreciation expense would be \$383k. The current depreciation of the recognised RFS Assets, consisting mostly of the new RFS Control Centre constructed in 2019, is \$98k.

**STRATEGIC IMPLICATIONS**

Nil

**COMMUNITY STRATEGIC PLAN**

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

5.2 Financially sustainable

**FINANCIAL IMPLICATIONS**

As mentioned above, if Council were to include all RFS assets in its financial statements, the amount of depreciation expense would be \$383k. The current depreciation of the recognised RFS Assets, consisting mostly of the new RFS Control Centre constructed in 2019, is \$98k.

**LEGISLATIVE IMPLICATIONS**

Nil

**ATTACHMENTS**

## Attachment 1 - LGNSW Letter to OLG re RFS assets audit opinions on Councils



Our ref: R90/1033-16 Out-35962

27 June 2023

Mr Ashley Albury  
A/ Deputy Secretary, Local Government  
Office of Local Government

By email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Dear Mr Albury

### **Qualified audit opinion and Rural Fire Service (RFS) mobile assets**

I write to express serious concern and disappointment at the letter sent by the Office of Local Government (OLG) to councils late last week regarding qualified audit opinions issued by the NSW Auditor General.

As you would be aware, many councils have taken the principled and professional decision not to recognise RFS mobile assets (the 'red fleet') in their financial statements as councils have no control over the acquisition, deployment or disposal of these assets.

Councils were disappointed, but not deterred by the Auditor General's qualified opinions in 2022/23. Feedback from our members indicates they will not change their position and we anticipate many more councils will receive qualified positions next year unless the NSW Government reverses the nonsensical position of councils being responsible for State red fleet assets.

In the opinion of Local Government NSW (LGNSW) and many councils, the Auditor General is not correct in her assessment that councils are non-compliant with the Australian Accounting Standards if they decided not to record these assets.

The position of LGNSW and councils is supported by:

- The State Government's own Local Government Accounting Code of Practice and Financial Reporting, which provides for councils to determine whether or not they record the RFS assets as council assets based on their professional opinion.
- A 7 June 2022 letter from the Secretary of the Department of Planning and Environment to the Auditor General which makes clear that 'councils need to assess whether they control any rural firefighting equipment in accordance with Australian Accounting Standards'.
- An independent expert's 2018 report by GAAP Consulting commissioned by the OLG and only recently released after a successful GIPA request, which found that 'councils have no substantive rights for the control of fire-fighting equipment – vesting by itself does not confer control'. The expert report went on to recommend that:

- *Fire-fighting equipment recognised by some councils should be derecognised.*
- *Fire-fighting equipment vested in councils should be recognised at cost in the RFS's financial statements.<sup>1</sup>*

These positions are further supported by the opinions of accounting professionals in councils right across NSW who have reasonably determined that RFS mobile assets should be recorded in the financial statements of the RFS.

LGNSW is perplexed as to why the NSW Government is now taking such a hard line in insisting that the assets be recognised as local government property. It is logical that RFS assets be treated consistently and in the same way as assets of other emergency service agencies such as the State Emergency Service (SES) and Fire & Rescue NSW, with ownership vested in the respective agencies.

It is the clear position of LGNSW that councils should not record RFS mobile assets in their financial statements and LGNSW will continue to recommend that councils continue to consider their own position on this matter.

It is especially disappointing that contrary to its previous position the OLG is now requesting so many councils across NSW to divert already strained council resources to provide OLG with further information on strategies to respond to the nonsensical position that RFS mobile assets are not assets of the RFS. This diversion of resources will distract councils from their core work for the community and will not provide any public benefit.

Councils across NSW rely on the support of the OLG. I strongly urge the OLG to reconsider its current position on this matter and rightly recognise that RFS mobile assets should be recognised as assets of the RFS for accounting purposes – in line with the independent expert advice OLG commissioned on this matter in 2018.

For further information, please contact LGNSW Director Advocacy, Damian Thomas on 02 9242 4063 or at [damian.thomas@lgnsw.org.au](mailto:damian.thomas@lgnsw.org.au).

Yours sincerely



Scott Phillips  
**Chief Executive**

Copy to: All General Managers and Chief Financial Officers of councils in NSW

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<sup>1</sup> Colin Parker, Principal and Former Member of the Australian Accounting Standards Board, GAAP Consulting, 'Review of accounting for 'red truck' assets and other fire-fighting equipment in NSW', April 2018. The report is listed as a final draft, and notes that the Office of Local Government asked that the draft report first be considered by NSW Government before any consultation with the local government sector. This local government consultation on the report never occurred and the report was not shared publicly until it was successfully released under a Government Information (Public Access) Act request in 2022.

# Review of accounting for ‘red truck’ assets and other fire-fighting equipment in NSW

An independent expert’s report

by

Colin Parker, principal, *GAAP Consulting*

Team leader – advisory and litigation support services

Former member of the Australian Accounting Standards Board

April 2018

33.1.1



### About the author – Colin Parker, principal, *GAAP Consulting*

I have had over 40 years' experience in financial reporting, auditing and ethics policy and implementation, including as director – accounting and auditing with CPA Australia, member of the Australian Accounting Standards Board, chairman of the Audit Advisory Committee to the board of CA ANZ, and as an adviser to the IPA on all aspects of professional standards.

I lead *GAAP Consulting*'s advisory and litigation team and have been involved in more than 40 litigation briefs as either an independent or consulting expert.

I have a public profile on emerging accounting and auditing issues, having given more than 300 talks, speeches and seminars in Australia and overseas (Singapore, Hong Kong, United Kingdom, Kuala Lumpur, Fiji and Dubai).

I have written many technical articles for CPA Australia and other bodies, numbering well over 200. I made contributions on contemporary issues to *Acuity* and the *Public Accountant*.

I am co-author of *Understanding and Implementing the Reduced Disclosure Regime* (two editions), co-authored *Australian GAAP* (nine editions). I was technical editor of the accounting bodies' *The Accounting and Auditing Handbook 1992-2001 (Volumes 1 & 2)* (10 editions).

I am editor of the monthly newsletter *GAAP Alert* and tweet and post on contemporary issues. I am also editor of the *GAAP Consulting* publications *Special GAAP Report* and *NFP Risks and Compliance* newsletter and a major contributor to the *Report Fraud and NOCLAR* newsletter.

### About *GAAP Consulting*

On 1 July 2003, I founded *GAAP Consulting* with a vision and a motto. The motto was easy: *Excellence in financial reporting*. The vision was to give the best, independent advice on all matters to do with financial reporting, auditing and ethics.

*GAAP Consulting* provides independent financial reporting, auditing, ethics, and risk management solutions to reduce clients' risks. A description of my services, clients and information products is available at [www.gaap.com.au](http://www.gaap.com.au). The expanding arch in the logo represents the client's journey from uncertainty to a sure solution through the use of my consulting services and products.

My core values are independence and integrity, and with my motto are reflected in the mnemonic:

**T** Trust  
**R** Respect  
**I** Innovate  
**E** Energise  
**D** Deliver  
**and PROVEN** approach.



As principal of *GAAP Consulting*, I provide expert advice on GAAP and GAAS, quality-assurance reviews, representation expertise, tailored training courses, and litigation support to meet client needs.

Where appropriate, *GAAP Consulting* uses the services of a network of independent colleagues (subcontractors) to assist with engagements. My colleagues are *all partner-equivalents*.

The *GAAP Consulting* network members and their areas of expertise are:

- Colin Parker (financial reporting, audit, ethics, and risk management)
- Carmen Ridley (financial reporting and a current member of the AASB))
- Stephen LaGreca (financial reporting, audit, and risk management)
- Sonya Sinclair (audit, risk management, and financial reporting)
- Jim Dixon (public and not-for-profit sectors)
- Andrew Parker (marketing and event management), and
- Stephen Downes (client communications).

I also use the services of Stephen Newman, corporate lawyer, Hope Earle, when matters have a legal aspect.

My business model is premised on using only known names and very experienced practitioners in financial reporting, ethics and auditing. Collectively, a unique blend of skills and experience is provided to meet clients' needs.

As a boutique consultancy, *GAAP Consulting* has an impressive list of clients in the private and public sectors to which a wide variety of GAAP, GAAS and training services are provided. My clients include legal firms, regulators, accounting firms, listed entities, and public sector and not-for-profit entities.

### About this report

This report has been prepared on the basis of the information sources cited and a brief discussion with Stephen O'Malley, executive director, finance and executive services, chief financial officer, NSW Rural Fire Service. The New South Wales Office of Local Government (OLG) and Treasury provided preliminary input for an earlier draft.

Apart from the preceding, I have yet to hold interviews with key stakeholders, including relevant councils. The OLG has requested that my draft report first be considered by Treasury, the RFS and the auditor-general before any consultation with the sector.

The report has been subject to internal consultation with my quality-assurance reviewer Stephen La Greca and a blind review by Carmen Ridley.

The opinions expressed in this report are my own.

I trust that the report will be a helpful discussion document for all major stakeholders. I welcome feedback to progress its finalisation.

33.1.1

 GAAP Consulting

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**Colin Parker**

Principal and team leader – advisory and litigation services

Former member of AASB

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Mobile 0421 088 611

11 April 2018

DRAFT

## Executive summary

### Introduction

1. Fire-fighting equipment provided by the Rural Fire Service (RFS) to local councils in New South Wales has been a vexed issue for many years. Who controls the assets – the RFS or the councils? This has not an easy question for stakeholders to answer due to factors such as:

- The legislative requirements and obligations of the RFS and councils, including the vesting of fire-fighting equipment with councils
- The choice of accounting under Office of Local Government (OLG) accounting code for local councils and their auditors to consider
- Long standing practices of the RFS and councils
- The effect of RFS service standards mandated for fire-fighting equipment (and its use) and rural fire district service agreements between the RFS and the councils
- The differing perceptions of control for red-fleet vehicles vis-a-vis associated land and buildings by the councils, and
- The lack of specific accounting standards addressing the control of an asset.

2. Under s119(1) of the *Rural Fires Act 1997*, fire-fighting equipment is defined as: *fire-fighting apparatus, buildings, water storage towers or lookout towers*. Fire-fighting apparatus is defined separately as: *all vehicles, equipment and other things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire*.

3. There has been inconsistent treatment, as councils have been given the choice (in the OLG accounting code) to recognise or not to recognise fire-fighting equipment assets, but with the intention that this decision would be made in accordance with accounting standards, including the application of materiality. The RFS has not recognised fire-fighting equipment as an asset in its financial statements on the basis that these assets are vested with the councils as stated in the RFS's accounting policy note to the financial statements.

4. With the extension of the auditor-general's mandate to cover local government, she is seeking to ensure an appropriate treatment.

5. Stakeholders' positions vary. The NSW Audit Office, NSW Treasury, and RFS are of the view that councils should recognise fire-fighting equipment in their financial statements *primarily* based on the fire-fighting equipment *vesting* in the councils under the Act.

6. On the other hand, many councils believe that they do not *control* fire-fighting equipment and, therefore, should not recognise them in their financial statements. Furthermore, they believe that fire-fighting equipment should be recognised by the RFS.

7. Stakeholders have provided various arguments and opinions to support their positions, including references to accounting standards and other authoritative pronouncements that they considered relevant. These are summarised in the appendix *Facts and stakeholder views on fire-fighting assets* – where appropriate, I have commented on them. Readers of this report, may wish to familiarise themselves with the appendix before considering the body of my report.

8. A related issue is the control of land and buildings provided by the RFS. They are also fire-fighting equipment as defined. I understand that land and buildings are viewed generally as *controlled* by the relevant council and recorded in councils' financial statements. But are they controlled by the councils?

9. The principle of control should apply to all fire-fighting equipment. RFS-sourced land and buildings, these should be subject to the same control considerations as the red-fleet vehicles. There are likely to be further implications for councils where council land has been used as a contribution to infrastructure. These need to be determined by each council in accordance with their own facts and circumstances, applying the test of materiality. I understand that white vehicles are recognised by the RFS as not vested to councils and are held at RFS districts for RFS use only. Accordingly, this issue is not considered further.

#### Scope

10. The OLG requested a review of the present arrangements of *how these assets, including red-fleet vehicles*, should be recognised with particular reference to which entity controls them (and should therefore recognise them in financial statements) to improve consistency in financial reporting in accordance with AASB standards.

11. Specifically, the OLG requested consideration of issues about legal versus operational control, future economic benefits of the assets, control of assets' movements, expertise to maintain assets and insurance.

#### Relevant accounting pronouncements

12. Based on my review of *Facts and stakeholder views on fire-fighting assets* (appendix), and consideration of these in the context of accounting standards and the *Framework for the Preparation and Presentation of Financial Statements*, the issues in contention cannot be resolved by reference to a specific accounting standard. Accordingly, the GAAP hierarchy under AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors* is the starting point for deliberations as to the appropriate accounting for red-fleet vehicles and related issues.

13. In the framework, an asset is defined as '[a] resource: *controlled* [my emphasis added] by an entity as a result of past events; (a) and from which future economic benefits are (b) expected to flow to the entity'. The framework also addresses the concepts of 'faithful representation', 'substance over form', and 'service potential'. 'Control' is defined in SAC 1 *Definition of the Reporting Entity*. These definitions and concepts are helpful in determining who controls fire-fighting equipment (including the red-vehicle fleet).

14. I have also considered the requirements of following accounting standards, and applied them in my deliberations and in forming my opinion:

- AASB 101 *Presentation of Financial Statements*
- AASB 116 *Property, Plant and Equipment*
- AASB 138 *Intangible Assets*
- AASB 117 *Leases*
- AASB 16 *Leases*
- AASB 15 *Revenue from Contracts with Customers*, and

- AASB 10 *Consolidated Financial Statements*.

15. The assets in question meet the definition of ‘property, plant and equipment’ in AASB 116 *Property, Plant and Equipment*. AASB 116 does not set requirements or provide guidance to support the argument that legal ownership is necessary for asset recognition nor an indicator of it.

16. AASB 138 *Intangible Assets* provides guidance on control of an asset – power to obtain the future economic benefits flowing from the underlying resource and to restrict the access of others to those benefits. Also, an enforceable legal right, it is not a necessary condition for intangible asset recognition as there may be other means of exercising control.

17. AASB 117 *Leases* contains a notion of ownership for classification between operating and financing leases. If arguments were mounted based on the principles in AASB 117, it is likely that the conclusion reached would be risks and rewards incidental to ownership of an asset (red-fleet vehicles and related infrastructure) would be retained by RFS.

18. AASB 16 *Leases* applies from 1 January 2019 and employs the principle of ‘a right to control the identified asset’. The notion of ownership of an asset is irrelevant under this model.

19. AASB 15 *Revenue from contracts with customers* applies from 1 January 2019 for not-for-profit entities. It uses control (not ownership) to describe when a good/service (an asset) is transferred to a customer – i.e., when the customer obtains control of it. In this context, control includes the ability to prevent others from directing the use of, and obtaining the benefits from, an asset.

20. AASB 10 *Consolidated Financial Statements* with its principle of ‘control of investee’ (an asset, for the purpose of this report) is a further authoritative source to be considered to the issue of who controls specifically the red-fleet vehicles and land and buildings.

21. In the absence of a specific accounting standard addressing the issues in contention, I have used the GAAP hierarchy and applied *collectively* the principles in AASB 116, AASB 138, AASB 117, AASB 10 and the recently issued standards AASB 16 and AASB 15 to help form my opinions.

22. These authoritative pronouncements strongly indicate that the fire-fighting equipment should be based on control rather than legal vesting (and related assessments of risks and rewards of ownership).

23. The issue also arises as to whether fire-fighting equipment is material in the context of the financial statements of councils concerned and the RFS. This assessment will need to be made by all parties. It may be that the fire-fighting equipment is immaterial to councils but material to the RFS.

#### **In my opinion**

24. The service potential of an asset is specific to an entity in meeting its objectives. An asset cannot be controlled by two entities. The fire-fighting equipment in question benefits both the councils and the RFS in helping them to comply with their legislative requirements.

25. The RFS has the substantive responsibilities for the prevention, mitigation and suppression of bush and other fires in local-government areas of New South Wales and controls fire-fighting equipment to meet its statutory objectives. It is the reason for the RFS's existence.

26. On the other hand, councils have their own unique responsibilities under the Local Government Act 1993 such as prescribed functions (s.21) and service functions, including the provision of goods, services and facilities and carrying out of activities (s.24), public land, environmental-upgrade agreements, and regulatory functions. The councils also have what I would consider as secondary or ancillary obligations under *Rural Fires Act 1997* to those of the RFS.

27. Through its service standards and rural fire district service agreements, the RFS has decision-making authority over fire-fighting equipment under the Act. The RFS exercises this authority through them, including the functions of zone managers and rural fire brigades. Many of the decisions are delegated by the RFS commissioner.

28. Furthermore, control of fire-fighting equipment by the RFS is evident by procurement (and replacement and retirement) decisions, service standards for care and maintenance, access, and deployment within the district and elsewhere. These are substantive rights of RFS. The RFS also has a protective right that prevents councils from selling or disposing of the assets without the written consent of the RFS commissioner. There are instances noted by some councils where the 'delegates' of the RFS restrict council access to fire-fighting equipment.

29. The councils have no substantive rights for the control of fire-fighting equipment – vesting by itself does not confer control.

30. As red-fleet vehicles are not controlled by the councils; also, any land and buildings provided by the RFS, as fire-fighting equipment, for its use are also likely not controlled by councils.

#### **My recommendations**

31. Fire-fighting equipment recognised by some councils should be derecognised. If the error is considered material, it should be disclosed as such under AASB 108 *Accounting Policies, Changes in Estimates and Errors*.

32. Fire-fighting equipment vested in councils whether recognised or unrecognised under options in the code should be recognised at cost in the RFS's financial statements. This should be accounted and disclosed as an error under AASB 108 *Accounting Policies, Changes in Estimates and Errors* if the error is determined to be material.

33. Given the diversity of opinion between two group of stakeholders over a long period, an argument could be made that rather than an error, it is a change in accounting policy resulting for consideration of recently issued accounting standards (i.e., AASB 10, AASB 15, AASB

16) that provide more definitive guidance on the control. Accordingly, it would be not treated as error.

**34.** Under AASB 108, ‘an entity shall change an accounting policy only if the change: ... (b) results in the financial statements providing reliable and more relevant information about the effects of transactions, other events or conditions on the entity’s financial position, financial performance or cash flows’ (AASB 108.14).

**35.** AASB 108 also identifies two circumstances that are not changes in accounting policies: (a) the application of an accounting policy for transactions, other events or conditions that differ in substance from those previously occurring and (b) the application of a new accounting policy for transactions, other events or conditions that did not occur previously or were immaterial’ (AASB 108.16). For an argument of a change in accounting policy to be sustained the ‘differ in substance test’ would need to be argued.

**36.** As a change in accounting policy, the derecognition of fire-fighting equipment by those councils that had previously recognised such assets and their recognition by the RFS would present more reliable and relevant information to the users of their financial statements and be in line with the entities’ objectives.

**37.** My preference is for an error correction as the appropriate treatment.

**38.** Turning specifically to RFS-sourced land and buildings, these should be subject to the same control considerations as the red-fleet vehicles. There are likely to be further implications for councils where council land has been used as a contribution to infrastructure. These need to be determined by each council in accordance with their own facts and circumstances, applying the test of materiality.

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## My brief

### Scope of engagement

1. The New South Wales Office of Local Government (OLG) has engaged Colin Parker, principal, *GAAP Consulting* to:

‘[U]ndertake a review of current arrangements to assess, identify and make recommendations on the appropriate recognition of Rural Fire Services (RFS) assets, including and how they should be treated for accounting purposes to create better clarity and consistency across the local-government sector’.

‘In conducting the review and making a report and recommendations, the focus should be on:

- a desktop review of legislation, policies, guidelines and reports
- identification and consideration of all key issues
- interviews with key stakeholders, including relevant councils
- identifying all possible options for recognising RFS assets
- forming an opinion about whether the best option would be for fire-fighting apparatus (assets) to be recorded in RFS’s or councils’ financial statements (note: land and buildings are generally controlled by the council and already recorded in councils’ financial statements)
- consequential impacts for local government of each option considered in the context of financial reporting, and
- any other matter considered relevant for OLG to be aware of in the course of conducting the work’.

2. The deliverables identified were:

- ‘a report setting out the findings and recommendations of an evidenced-based review of current arrangements, including desktop research and interviews with key stakeholders, and proposed recommendation for the appropriate recognition of RFS assets, and
- any consequential impacts for local government.’

### The issue – who controls fire-fighting equipment?

3. Fire-fighting equipment provided by RFS to local councils is a vexed issue. Who controls the asset, the RFS or the councils?

4. Currently, the land and buildings provided by RFS are viewed *generally* as controlled by the council and recorded in councils’ financial statements, the accounting treatment of other assets (particularly, the so called red-fleet vehicles) being the focal point of concern.

5. Some councils are concerned about who controls RFS assets, including red-fleet vehicles, and the consequential financial-reporting effects of ‘ownership’.

6. Furthermore, there has been inconsistent treatment between the RFS, a state-government entity, and some councils. Councils are given the choice (in the OLG accounting code) to recognise or not to recognise the assets as determined by accounting standards.

7. As the auditor-general’s mandate has been extended to cover local governments, the auditor-general is seeking to ensure an appropriate treatment. The auditor-general’s office

recently formed a view that it believed that RFS assets, including red-fleet vehicles, are controlled by councils. This position was informed by a separate view provided by the NSW Treasury to the auditor-general.

8. The OLG requires a review of how *RFS assets, including the red-fleet vehicles*, should be recognised, with particular reference to which organisation controls them (and should therefore record them in their financial statements) for the purposes of informing greater consistency in financial reporting under the Australian Accounting Standards Board standards.

9. Relevant sources of legal and other relevant obligations include: *Rural Fires Act 1997* (the Act); *Local Government Act 1993*; *OLG Code of Accounting Practice and Financial Reporting*; and Australian Accounting Standards.

10. The *Local Government Code of Accounting Practice and Financial Reporting* (Update No. 25, June 2017) stated: 'Councils have the option to continue to recognise or not to recognise Rural Fire Services assets in their accounts until such time as the control issue is agreed upon with the Rural Fire Service'.

#### Key issues identified in the request for tender

11. The Request for Tender identified the following key issues:

*Legal vs operational control* – As red-fleet vehicles are legally vested in the council, the RFS does not record them in its financial statements. Many councils also do not record them in their financial statements because they are effectively managed, used and maintained on a day-to-day basis by the RFS via *Rural Fire District Service Agreements* under s12A of the Act. These set out arrangements for maintenance, use, access and delegation of hazard reduction activities.

*Future economic benefits of the assets* – RFS assets benefit both councils and the RFS in helping them to comply with their legislative requirements. For the purposes of *The Framework for Preparation and Presentation of Financial Statements* for not-for-profit entities in the public sector, economic benefit of an asset equates to its service potential.

*Control of movement of assets* – Even though S119(2) of the Act vests the assets in the relevant council, S119(3) prevents the council from selling or disposing of the assets without written consent from the RFS commissioner.

*Expertise to maintain assets* – Under s119(5) of the Act, it is the relevant council's responsibility to take care and maintain the assets, based on standards set by the commissioner, but councils lack expertise to do so and transfer this obligation to the RFS through the agreement.

*Insurance* – While RFS assets are vested in councils, they may agree to an arrangement whereby the RFS acquires insurance coverage in its name. The RFS pays the premium from the Rural Fire Fighting Fund (RFFF) and is nominated as an insured party under the policy.'

### My accounting opinion

#### Relevant accounting pronouncements

#### Application of GAAP hierarchy in the absence of a specific accounting standard

12. Based on my review of *Facts and stakeholder views on fire-fighting assets* (appendix), and consideration of these in the context of accounting standards and the *Framework for the Preparation and Presentation of Financial Statements*, I am of the opinion that the issues in contention cannot be resolved by reference to a specific accounting standard.

13. Accordingly, I have formed my views in accordance with AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*. Relevant paragraphs are:

‘10 In the absence of an Australian Accounting Standard that specifically applies to a transaction, other event or condition, management shall use its judgement in developing and applying an accounting policy that results in information that is: (a) relevant to the economic decision-making needs of users; and (b) reliable, in that the financial statements: (i) represent faithfully the financial position, financial performance and cash flows of the entity; (ii) reflect the economic substance of transactions, other events and conditions, and not merely the legal form; (iii) are neutral, i.e. free from bias; (iv) are prudent; and (v) are complete in all material respects.

11 In making the judgement described in paragraph 10, management shall refer to, and consider the applicability of, the following sources in descending order: (a) the requirements in Australian Accounting Standards dealing with similar and related issues; and (b) the definitions, recognition criteria and measurement concepts for assets, liabilities, income and expenses in the Framework.

12 In making the judgement described in paragraph 10, management may also consider the most recent pronouncements of other standard-setting bodies that use a similar conceptual framework to develop accounting standards, other accounting literature and accepted industry practices, to the extent that these do not conflict with the sources in paragraph 11.’

14. I note that the various stakeholders did not use the GAAP hierarchy as a starting point for their deliberations. Instead, they selected specific accounting standards and/or the framework to support their contentions.

15. I have made my assessment based on the ‘11(a) requirements in Australian Accounting Standards dealing with similar and related issues’. Specifically, I considered the requirements of the following accounting standards and applied them *collectively* in my deliberations and in forming my opinion:

- AASB 101 *Presentation of Financial Statements*
- AASB 116 *Property, Plant and Equipment*
- AASB 138 *Intangible Assets*
- AASB 117 *Leases*
- AASB 16 *Leases*
- AASB 15 *Revenue from Contracts with Customers*, and
- AASB 10 *Consolidated Financial Statements*.

16. The standards cited above include those that date back to when Australia transitioned to international standards in 2005-2006 (AASB 116, AASB 117 and AASB 138), AASB 10 (operative from 1 January 2013) and recently issued standards (AASB 15 operative from 1 January this year and AASB 16 operative from 1 January next).

17. I have also considered the reference in my paragraph 13 above to 11(b) in relation to the definition of an asset.

18. In my view, these pronouncements collectively and substantively support the accounting principle that control of an asset takes precedent over ownership (vesting). Providing a weighting or ranking of asset and ownership is neither required nor necessary.

*Framework for The Preparation and Presentation of Financial Statements*

19. *The Framework for The Preparation and Presentation of Financial Statements* sets out the concepts that underlie the preparation and presentation of financial statements for external users which includes '1(d) assist preparers of financial statements in applying Australian Accounting Standards and in dealing with topics that have yet to form the subject of an Australian Accounting Standard'.

20. The framework, and accounting standards, use the term 'future economic benefits', which the Australian Accounting Standard Board explains in a not-for-profit context like this:

'Aus49.1 In respect of not-for-profit entities in the public or private sector, in pursuing their objectives, goods and services are provided that have the capacity to satisfy human wants and needs. Assets provide a means for entities to achieve their objectives. Future economic benefits or service potential is the essence of assets. Future economic benefits are synonymous with the notion of service potential and is used in this Framework as a reference also to service potential. Future economic benefits can be described as the scarce capacity to provide benefits to the entities that use them and is common to all assets irrespective of their physical or other form.'

21. The framework defines an asset as 'A resource: controlled by an entity as a result of past events; (a) and from which future economic benefits are (b) expected to flow to the entity' (F.49(a)). I note that the definition refers to control, not ownership of a resource. The resource is controlled by an *entity* and not *entities* (i.e. multiple entities cannot control the same asset with the exception of joint control under AASB 11 *Joint Arrangements*). So, the service potential of fire-fighting equipment would primarily flow to one entity.

22. The framework describes when an asset is recognised: '[W]hen it is probable that the future economic benefits will flow to the entity and the asset has a cost or value that can be measured reliably' (F.89).

23. 'Control' is defined in SAC 1 *Definition of the Reporting Entity* as:

'[T]he capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable that other entity to operate with it in achieving the objectives of the controlling entity' (SAC 1.6)

24. The framework does not contain a definition of 'control of assets', although the withdrawn Statement of Accounting Concept SAC 4 *Definition and Recognition of the Elements of Financial Statements* contained such a definition. Some stakeholders cited it to support the contention that the councils did not control the red-fleet vehicles. The absence of such a definition is not a concern because other definitions and principles in individual standards can be applied to address the issue by analogy. This can often be achieved by substituting the term 'entity' with 'asset'.

25. The following statements regarding 'substance' and 'legal rights' in the framework are also particularly relevant:

- 'In assessing whether an item meets the definition of an asset, liability or equity, attention needs to be given to its underlying substance and economic reality and not merely its legal form (Framework .51)', and
- 'In determining the existence of an asset, the right of ownership is not essential' and 'Although the capacity of an entity to control benefits is usually the result of legal rights, an item may nonetheless satisfy the definition of an asset even when there is no legal control' (Framework .57).

### *AASB 101 Presentation of Financial Statements*

**26.** AASB 101 is relevant as it requires consideration of 'material', 'purpose of financial reporting' and 'fair presentation':

- The definition of material: 'Material Omissions or misstatements of items are material if they could, individually or collectively, influence the economic decisions that users make on the basis of the financial statements. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor' (AASB 101.7).
- Purpose of financial statements: 'The objective of financial statements is to provide information about the financial position, financial performance and cash flows of an entity that is useful to a wide range of users in making economic decisions. Financial statements also show the results of the management's stewardship of the resources entrusted to it' (AASB 101.9).
- Fair presentation: 'Financial statements shall present fairly the financial position, financial performance and cash flows of an entity. Fair presentation requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Framework. The application of Australian Accounting Standards, with additional disclosure when necessary, is presumed to result in financial statements that achieve a fair presentation' (AASB 101.15).

### *AASB 116 Property, Plant and Equipment – no notion of legal ownership*

**27.** The objective of AASB 116 *Property, Plant and Equipment* includes the following statement:

'[To] prescribe the accounting treatment for property, plant and equipment so that users of the financial statements can discern information about an entity's investment in its property, plant and equipment and the changes in such investment. The principal issues in accounting for property, plant and equipment are the recognition of the assets, the determination of their carrying amounts and the depreciation charges and impairment losses to be recognised in relation to them'. (AASB 116.1)

**28.** AASB 116 defines 'property, plant and equipment' as tangible items that: '(a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes', and '(b) are expected to be used during more than one period'. The

red-fleet vehicles (also the 'white fleet'), and associated land and buildings fall within this definition; and must therefore be accounted for under this standard.

**29.** In relation to recognition, 'the cost of an item of property, plant and equipment shall be recognised as an asset if, and only if: (a) it is probable that future economic benefits associated with the item will flow to the entity; and (b) the cost of the item can be measured reliably' (AASB 116.8).

**30.** AASB 116 does not define or describe 'future economic benefits' but the framework extracts are helpful in this regard.

**31.** In reference to cost, AASB 116 requires that 'for not-for-profit entities, where an asset is acquired at no cost, or for a nominal cost, the cost is its fair value as at the date of acquisition' (AASB 116. Aus15.1).

**32.** If the fire-fighting equipment (and associated land and buildings) provided by RFS were an asset of the council, they would have to be fair-valued at acquisition date (and they would be carried at fair value going forward due to OLG's direction). It is likely that the RFS as the provider of such assets to council would have fair-value information, particularly of the red-fleet vehicles as the procurer of such assets.

**33.** AASB 116 does not contain any reference to a definition of control nor discussion of ownership for purpose of asset recognition.

**34.** In my opinion, there is nothing in AASB 116 which supports an argument that legal ownership is a 'strong indication of control' (Treasury view) and '[a]ssets are vested in the Council as per Rural Fire Services Act 1997, giving Council legal ownership' (NSW Audit Office). This finding is also borne out by my consideration of other accounting standards – some dating back to the transition to IFRS in 2005-2006 others being more recent.

#### **AASB 138 *Intangible Assets* –guidance on 'control'**

**35.** AASB 138 *Intangible Assets* is helpful as it contains commentary about 'control of an asset'. It should be noted that AASB 138 contains higher asset-recognition tests than AASB 116 due to the nature of intangible assets and expenditures that give rise to assets, and the difficulty with recognition and measurement. Accordingly, this distinction needs to be borne in mind when applying AASB 138 to the present situation.

**36.** The objective of AASB 138 is:

'[To] prescribe the accounting treatment for intangible assets that are not dealt with specifically in another Standard. This Standard requires an entity to recognise an intangible asset if, and only if, specified criteria are met. The Standard also specifies how to measure the carrying amount of intangible assets and requires specified disclosures about intangible assets.'

**37.** In relation to *control*, AASB 138 states:

'13. An entity controls an asset if the entity has the power to obtain the future economic benefits flowing from the underlying resource and to restrict the access of others to those benefits. The capacity of an entity to control the future economic benefits from an intangible asset would

normally stem from legal rights that are enforceable in a court of law. In the absence of legal rights, it is more difficult to demonstrate control. However, legal enforceability of a right is not a necessary condition for control because an entity may be able to control the future economic benefits in some other way.

14 Market and technical knowledge may give rise to future economic benefits. An entity controls those benefits if, for example, the knowledge is protected by legal rights such as copyrights, a restraint of trade agreement (where permitted) or by a legal duty on employees to maintain confidentiality.

16 An entity may have a portfolio of customers or a market share and expect that, because of its efforts in building customer relationships and loyalty, the customers will continue to trade with the entity. However, in the absence of legal rights to protect, or other ways to control, the relationships with customers or the loyalty of the customers to the entity, the entity usually has insufficient control over the expected economic benefits from customer relationships and loyalty for such items (e.g. portfolio of customers, market shares, customer relationships and customer loyalty) to meet the definition of intangible assets. In the absence of legal rights to protect customer relationships, exchange transactions for the same or similar non-contractual customer relationships (other than as part of a business combination) provide evidence that the entity is nonetheless able to control the expected future economic benefits flowing from the customer relationships. Because such exchange transactions also provide evidence that the customer relationships are separable, those customer relationships meet the definition of an intangible asset.'

**38.** In summary, the principle espoused here is that an entity controls an asset if it has the *power* to obtain future economic benefits flowing from the underlying resource and to *restrict* the access of others to them. The enforceable legal rights ('normally stem from legal rights') are relevant, having regard to the nature of the asset. However, an enforceable legal right is not a necessary condition for intangible-asset recognition.

**39.** In my opinion, AASB 138 provides a lens through which the current issues should be viewed – 'control of asset' in terms of power, restricted access and that ownership alone does not equate to control. AASB 138, as a piece of authoritative literature, supports the argument for control rather than vesting (legal ownership) of assets leads to an asset's recognition in financial statements.

#### AASB 117 *Leases* – title not a deciding factor

**40.** AASB 117 *Leases* can be of assistance in deliberations as it has an ownership notion. The relevant paragraphs are:

4 A finance lease is defined as 'is a lease that transfers substantially all the risks and rewards incidental to ownership of an asset. Title may or may not eventually be transferred'.

7 The classification of leases adopted in this Standard is based on the extent to which risks and rewards incidental to ownership of a leased asset lie with the lessor or the lessee. Risks include the possibilities of losses from idle capacity or technological obsolescence and of variations in return because of changing economic conditions. Rewards may be represented by the expectation of profitable operation over the asset's economic life and of gain from appreciation in value or realisation of a residual value.

**41.** Identification of a finance lease results in the recognition of lease asset and liability in financial statements of the lessee. Whereas, an operating lease is disclosed as a commitment of the lessee.

42. I note that determination of risks and rewards is framed in a for-profit context to which I would overlay with the term 'service potential' in the current context.

43. I make the following comments about current circumstances:

1. Classification does not depend on the title passing, which, in my opinion, weakens the argument that vesting of the assets to the councils under the Act is a *significant factor* in determining asset recognition.
2. The risks and rewards incidental to ownership substantially rest with the RFS to achieve its objectives under the Act. Both the RFS and, to a far lesser degree, the councils benefit from fire-fighting equipment to meet their responsibilities under the Act. The councils have effectively outsourced their responsibilities to the RFS through rural district service agreements. Under these agreements, the red-fleet vehicles are effectively managed, used and maintained on a day-to-day basis by the RFS for the RFS.
3. The RFS has set extensive service standards on fire-fighting equipment and its use by volunteers which, in my opinion, gives the service decision-making powers over that equipment and its service potential.
4. The councils' only partially share any gain on disposal.

44. In my opinion, applying an ownership test based on risks and rewards to the red-fleet vehicles would see the risks and rewards (service potential) being substantially enjoyed by the RFS to meet its obligations under the Act.

45. I also note that the framework uses a finance lease as an example of substance over legal form:

'... in the case of finance leases, the substance and economic reality are that the lessee acquires the economic benefits of the use of the leased asset for the major part of its useful life in return for entering into an obligation to pay for that right an amount approximating to the fair value of the asset and the related finance charge. Hence, the finance lease gives rise to items that satisfy the definition of an asset and a liability and are recognised as such in the lessee's balance sheet.'  
(Framework .51)

46. In current circumstances, the legal form would focus on the vesting provisions of the Act. Whereas, in my opinion, the substance would take into account all facts and circumstances including:

- The responsibilities of the RFS and its commissioner and those of the councils under the Act and their respective relativities
- The service standards set by the RFS for use of the fire-fighting equipment
- The rural fire district service agreements, and
- Which entity substantially receives the benefit of service potential for the existence and use of the fire-fighting equipment to meet its objectives.

47. I note that *AASB 117 Leases* is to be replaced by *AASB 16 Leases* from 1 January 2019. *AASB 16* employs the principle of 'a right to control the identified asset for a period of time in exchange for consideration'. The notion of ownership of an asset under *AASB 1176* is

superseded. AASB 16, the most recently issued standard, requires that asset assessments be based on control of the asset.

*AASB 15 Revenue from Contracts with Customers – further contemporary evident of control*

48. I note that the recently issued AASB 15 *Revenue from Contracts with Customer* also uses the concept of control in its requirements regarding satisfaction of performance obligations:

‘31 An entity shall recognise revenue when (or as) the entity satisfies a performance obligation by transferring a promised good or service (i.e. an asset) to a customer. An asset is transferred when (or as) the customer obtains control of that asset.’

33 Control of an asset refers to the ability to direct the use of, and obtain substantially all of the remaining benefits from, the asset. Control includes the ability to prevent other entities from directing the use of, and obtaining the benefits from, an asset.’

49. We can see that AASB 15 as another example of the principle of control and provides another consistent explanation of its meaning (for example, the ability to direct and obtain substantially all the asset’s benefits and to prevent others from the assets’ use).

*AASB 10 Consolidated Financial Statements – analogous circumstances application*

50. AASB 10 *Consolidated Financial Statements* is a relatively recent accounting standard compared with AASB 116, AASB 138, and AASB 117. It contains a level of detail of how control should be determined that is not found in the other standards I have cited. In this regard, it is helpful in further understanding the term ‘control’ and its use by analogy.

51. AASB 10 embodies the concept of control rather ownership of an investee (an asset). It defines the principle of control and establishes control as the basis for consolidation of an investee.

‘An investor controls an investee when it has all of the following: *power* over the investee’s exposure or rights to variable returns from its involvement with the investee, and the ability to use its power over the investee to affect the amount of the investor’s returns’ (AASB10.7).’

52. Again, I would use the notion of *service potential* as a substitute for *returns* to apply control in the current circumstances.

53. Power (rights) gives the entity the current ability to direct relevant activities (that significantly affect service potential) (AASB10.10).

54. AASB 10 identified considerations for the determination of control (I have substituted ‘asset’ for ‘investee’ to assist with its application by analogy):

‘(a) the purpose and design of the asset; (b) what the relevant activities are and how decisions about those activities are made; (c) whether the rights of the investor give it the current ability to direct the relevant activities; whether the investor is exposed, or has rights, to variable returns from its involvement with the asset; and (e) whether the investor has the ability to use its power over the asset to affect the amount of the investor’s returns’ (AASB 10.B3).

**55.** Understanding what constitutes ‘relevant activities’ is important in understanding ‘power’ over the ‘asset’:

‘B9 To have power over an investee, an investor must have existing rights that give it the current ability to direct the relevant activities. For the purpose of assessing power, only substantive rights and rights that are not protective shall be considered.’

**56.** In the current circumstances, these powers are reflected in those assigned to the RFS commissioner under the Act. They include the setting of service standards and entering into rural fire district service agreements with councils. The powers of the RFS and its commissioner are summarised in the appendix as well as aspects of the service standards issued by the RFS.

**57.** Relevant activities and direction of relevant activities are linked to control:

‘B11 For many investees, a range of operating and financing activities significantly affect their returns. Examples of activities that, depending on the circumstances, can be relevant activities include, but are not limited to: (a) selling and purchasing of goods or services; (b) managing financial assets during their life (including upon default); (c) selecting, acquiring or disposing of assets; (d) researching and developing new products or processes; and (e) determining a funding structure or obtaining funding.’

‘B12 Examples of decisions about relevant activities include but are not limited to: (a) establishing operating and capital decisions of the investee, including budgets; and (b) appointing and remunerating an investee’s key management personnel or service providers and terminating their services or employment.’

**58.** In my opinion, examples in B11 (b), (c), (d) and in B12 (a) and (b) are relevant activities of the RFS in relation to the red-fleet vehicles, and land and buildings. They are indicative of power under the three-step control-determination rules in AASB 10.

**59.** Specifically in relation to B11 and the current circumstances:

- Managing assets – maintenance criteria are specified in the RFS service standards
- Selecting, acquiring or disposing of assets – while councils are involved in the bid process for new fire-fighting equipment, the final decision is made by the RFS with, for example, the type of red-fleet vehicles to be acquired specified in RFS service standards
- Researching and developing new products or processes – this is a responsibility of the RFS as central procurer of fire-fighting equipment as are the processes and improvements determined by the RFS through its service standards, and
- Funding – through RRRF which is a restricted asset of RFS.

**60.** Specifically in relation to B12 and the current circumstances:

- Establishing operating and capital decisions for the fire-fighting equipment – these are set by the Act, and RFS service standards and not by councils, and
- Appointing service providers (volunteers) and terminating their services – these are set by an RFS service standard.

**61.** Also, AASB 10 addresses the circumstance where two or more investors each have existing rights that give them the unilateral ability to direct different relevant activities. In such a circumstance, the investor who has the current ability to direct activities that most significantly affect the returns of the investee has power over the investee (AASB 10.13).

**62.** In the current circumstances, councils have rights in terms of the vesting of fire-equipment with them and their use in meeting the council's responsibilities under the Act. In my opinion, though, they do not have a unilateral ability as they are constrained by the RFS commissioner's powers under the Act, including the setting of service standards, entering into rural fire district service agreements with councils, and restrictions on the disposal of fire-fighting equipment. In my opinion, the RFS has the substantive ability to affect the service potential of the fire-fighting equipment through the RFS commissioner's powers under the Act.

**63.** AASB 11 *Joint Arrangements* defines the term joint control – the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control. In my opinion, joint control does not exist in the current circumstances for the reason stated in the preceding paragraph.

**64.** In my opinion, in considering the requirements in Australian accounting standards in dealing with similar and related issues under the GAAP hierarchy, AASB 10 is suitable to apply in making a judgement about an appropriate accounting policy along with the principles in AASB 116, AASB 138, AASB 117, AASB 16 and AASB 15.

#### Themes from authoritative literature

**65.** From my review of the above, the following principles are evident:

- Assets (and their inherent service potential) are the means for an entity to achieve its objectives by their use
- Focus should be on the underlying substance and economic reality and not merely its legal form
- Control of an asset is the power to obtain the future economic benefits flowing from the resource and to restrict the access of others to those benefits
- Only one entity can control an asset, but the service potential of the asset may be enjoyed by others. In such circumstances, control rests with the entity that substantially enjoys the asset's service potential
- An enforceable legal right is not a necessary condition for control of the asset; there may be other means of exercising control, and
- In the more recent standards, the control-based model for recognition is more evident than a legal ownership/risk and reward model.

#### Control of the fire-fighting equipment

##### Service potential

**66.** Fire-fighting equipment (that is, fire-fighting apparatus – all vehicles, equipment and other things used for or in connection with the prevention or suppression of fire or the protection of life and property in case of fire as well as buildings, water-storage and lookout

towers) is an asset. The service potential is the ability to prevent, mitigate and suppress bush and other fires. Buildings and other infrastructure facilitate this ability.

**67.** Under accounting standards, fire-fighting equipment must be an asset of either the RFS or local councils as the definition of an asset is entity specific.

**68.** The RFS and individual local councils have ‘fire-fighting’ responsibilities under the Act in which fire-fighting equipment is used. The responsibilities of the RFS are extensive as described under the Act and include:

- a) ‘for the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts, and
- b) for the co-ordination of bush firefighting and bush fire prevention throughout the State.’

**69.** In comparison, councils’ fire-fighting responsibilities are somewhat limited – they have a duty to prevent the occurrence of bush fires on any land, highway, road and street that is vested in or is under their control. RFS enters rural fire district service agreements with councils to undertake these responsibilities on their behalf.

#### Rural fire district service agreements

**70.** It is understood that there may be some differences in the various agreements between the councils and the RFS.

**71.** Based on a review of a service agreement and some councils’ comments on the broad nature of their agreements, the responsibilities of the RFS and a local council can be summarised as:

The RFS:

- Is responsible for the day-to-day management of RFS in the district, including deployment
- Can provide additional equipment to meet its responsibilities under the agreement
- Is responsible for maintenance of district equipment to the standards set by the RFS
- Maintains a register of district equipment, and
- Procurement decisions are made by the RFS with disputes settled by the Minister.

Councils:

- As legal owners have agreed that the RFS can use the district equipment
- Provide certain information to assist the RFS with its tasks in the district, and
- Engages in the procurement process.

**72.** The recitals and detail of these agreements tell us about the nature of the relationships between the RFS and councils. In essence, the councils’ responsibilities under the Act have been contracted to the RFS. The RFS has control of district equipment and premises. It is the RFS that enjoys the assets’ service potential.

#### Asset acquisition and control of their use

**73.** The NSW Rural Fire Fighting Fund (RFFF) holds all contributions required to meet the costs of co-ordinating bush firefighting and prevention throughout the state and to provision its rural fire services.

74. The fund is maintained by Treasury and used to acquire and build red-fleet vehicles, other assets and to fund RFS activities. RFS has control over the account based on an annual budget approved by the Minister. RFFF is funded by contributions from insurance companies (73.7 per cent), councils (11.7 per cent) and Treasury (14.6 per cent). The councils are entitled to share in the proceeds of disposal of assets (11.7 per cent).

75. The RFS zone manager makes decisions about capital improvements and new assets. While councils may be consulted as part of the decision-making process, they take no part in decisions. Fire-fighting equipment is procured or built, under the direction of the RFS and in accordance the relevant RFS service standards.

76. Under the Act (s119(2)) assets vest in the council for which they have been purchased or constructed. Section 119(3) prevents the council from selling or disposing of the assets without written consent from the RFS commissioner. This is a protective right of the RFS.

77. Under S119(5) of the Act, the councils have the responsibility to take care of and maintain these specialised assets. The Act authorises the RFS commissioner to set maintenance standards for the assets. The councils transfer their maintenance obligations to the RFS through the Rural Fire District Service Agreements.

78. A rural fire brigade (RFB) is generally constituted by the council, the commissioner having the power to constitute an RFB if the council fails to do so. The commissioner controls and directs the functions of the RFB. An RFB is mainly composed of volunteers, and its activities are supervised and co-ordinated by a fire control officer. The FCO is an RFS employee and reports direct to the commissioner.

79. The commissioner may, with the concurrence of the council, use any of the equipment to deal with incidents outside the district area.

80. From the information provided, councils do not have access to red-fleet vehicles and buildings. However, I am informed that this may vary from region-to-region with some councils have limited access to limited use of the red-fleet.

81. The RFS insures plant and equipment, and councils meet the outgoing of buildings and other infrastructure assets.

82. The Minister for Police and Emergency Services has powers regarding disputes between the RFS and councils on matters such as contribution.

#### Infrastructure provided by the RFS

83. While accounting treatment of red-fleet vehicles has been the focus for many, the appropriate accounting of land and buildings provided by the RFS also needs to be explicitly addressed as required by my brief. Given that the same accounting considerations arise for both red-fleet vehicles and the land and buildings provided by RFS, it puzzles me that stakeholders have failed to canvass appropriate accounting for the latter.

**84.** Land and buildings *provided by the RFS* have generally been regarded as owned and/or controlled by the councils and recorded in their financial statements. Arguments for the continued recognition of land and buildings have not been advanced.

**85.** From the information provided, it appears that the recognition of land and buildings is, in part, justified on the basis of councils' responsibility for their maintenance and insurance. In other aspects, they seem similar to red-fleet vehicles. Maintenance and insurance of buildings are obligations. They are not rights to control assets for their service potential to meet councils' objectives.

**86.** The underlying accounting for fire-fighting equipment, whether red-fleet vehicles or land and buildings, should be subject to the application of the same accounting principles as previously outlined.

**87.** In my opinion, as red-fleet vehicles are not controlled by the councils, land and buildings provided by the RFS in association with them are also *likely* not controlled by the councils. The latter need to be further investigated.

**88.** Where councils have provided land and buildings to the RFS, they will need to give consideration to requirements of AASB 117 *Leases* and AASB 1004 *Contributions* and also the new standard AASB 16 *Leases*.

#### Specific issues

**89.** The following issues were identified for consideration as part of this review and I provide my opinions on them.

**90. *Legal vs operational control:*** Accounting issues need to be considered in the context of control over the asset's service potential to contribute to the objectives of the entity. Legal ownership (vesting) is not the crucial determinant for control as explained in my review of the accounting standards and framework.

**91. *Future economic benefits of the asset:*** The service potential of an asset is specific to the entity and its objectives. An asset cannot be controlled by two entities. The fire-fighting equipment benefits both the councils and the RFS in helping them to comply with their legislative requirements. The RFS has the substantive responsibilities for the prevention, mitigation and suppression of bush and other fires in local government areas and other parts of the State, and controls fire-fighting equipment to meet its statutory objectives.

**92. *Control (of movement) of assets:*** The RFS has decision-making authority over fire-fighting equipment under the Act and rural fire district service agreements. The RFS exercises this authority through them, including the functions of zone managers and rural fire brigades.

**93.** Control of fire-fighting equipment is evident by procurement (and replacement and retirement) decisions, service standards for their care and maintenance, access restrictions, and deployment within the district and elsewhere in the state. These are substantive rights of the RFS. The RFS also has a protective right in that councils are prevented from selling or disposing of the assets without written consent from the RFS commissioner (s.119(3)).

Councils have no substantive rights for the control of fire-fighting equipment – vesting does not confer control.

**94. Maintenance of assets (including expertise):** As the decision-making authority, the RFS is exposed to the risks of poor fire-fighting equipment, with the exception of the exterior of some infrastructure assets within the district. While the relevant council has responsibility under the Act for care and maintenance of the vested assets, the standards of care and maintenance are set by the RFS commissioner under the Act (s119(5)). The councils have outsourced this obligation to the RFS through the rural fire district service agreements. Fire-fighting equipment, with exception of some infrastructure assets, is specialised, and expertise for its maintenance lies with the RFS and not councils. The RFS has set service standards for maintenance.

**95. Insurance:** As the decision-making authority, the RFS is exposed to the risks of loss of fire-fighting equipment with the exception of the exterior of some infrastructure assets that are insured by councils, and the RFS has insured against its risks.

### Conclusion

**96.** Users of not-for-profit financial statements are concerned with the ability of an entity to achieve its objectives, both financial and non-financial. Financial statements should show the results of the stewardship of management for the resources entrusted to it.

**97.** The current accounting for fire-fighting equipment fails the information needs of the RFS's and councils' financial-statement users as the equipment has failed to be recognised by the entity that controls its potential to meet its objectives.

**98.** In my opinion, fire-fighting equipment is controlled by the RFS as determined by application of accounting standards and the framework according to the facts and circumstances described.

**99.** Recognition of fire-fighting equipment by the RFS in its financial statements, and derecognition by the councils from theirs, also satisfies the definition of an asset and qualitative characteristics of financial statements, including faithful representation and substance over form.

**100.** Fire-fighting equipment recognised by some councils should be derecognised and this should be accounted and disclosed as an error under AASB 108 *Accounting Policies, Changes in Estimates and Errors*.

**101.** Fire-fighting equipment vested in councils, whether recognised or unrecognised, under options in the code should be recognised in the RFS's financial statements. This should be accounted and disclosed as an error under AASB 108 *Accounting Policies, Changes in Estimates and Errors*.

**102.** Alternatively, an argument could be made that rather than an error, it is a change in accounting policy resulting for consideration of recently issued accounting standards (i.e., AASB 10, AASB 15, AASB 16) that provide more definitive guidance on the control. However, in my opinion the long-standing authoritative pronouncements (framework, SAC 1,

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AASB 116, AASB 138, and AASB 117) were sufficient to conclude that decisions should be made on the basis of control rather than ownership. Some may not share this view.

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## Appendix: Facts and stakeholder views on fire-fighting assets

### Introduction

1. Stakeholders have provided the Office of Local Government (OLG) with various arguments, opinions, and documents to support their positions on accounting for red-fleet assets in particular. The OLG has provided these for my consideration. Extracts from them have been included in this appendix along with salient matters from my discussions with certain stakeholders.
2. I have also included my views on several issues raised that link to the body of my report. However, I have not commented on individual arguments for and against recognition in the financial statements of councils or the RFS; these have been addressed in the body of my report.
3. The RFS is the lead combat agency for bush fires. It works closely with other agencies to respond to emergencies, including structure fires, motor-vehicle accidents and storms that occur within the rural fire districts.
4. The RFS website contains the following description of responsibilities:
  - ‘The NSW RFS has fire management responsibilities for over 95 percent of the landmass of the State and therefore the Service is spread across the length and breadth of NSW. A total of 47 districts are grouped into four regions.
  - ‘In each District NSW RFS staff members assist volunteers and brigades to prepare for and respond to operational incidents.
  - ‘A Fire Control Centre forms the administrative and operational base of the rural fire district or zone.
  - ‘The coordination and management of local brigade responses to fire and other incidents – including natural disasters, motor vehicle accidents and other civil emergencies – is undertaken through the Fire Control Centre.’

### NSW Rural Fire Services (RFS)

#### Responsibilities of RFS and Councils

5. The Rural Fires Act 1997 (the Act) established the Rural Fire Service (RFS) to co-ordinate bush firefighting and prevention throughout the state and to provide rural fire services for New South Wales.
6. The objects of the *Rural Fires Act 1997* are to provide:
  - a) ‘for the prevention, mitigation and suppression of bush and other fires in local government areas (or parts of areas) and other parts of the State constituted as rural fire districts, and
  - b) for the co-ordination of bush firefighting and bush fire prevention throughout the State, and

- c) for the protection of persons from injury or death, and property from damage, arising from fires, and c1) for the protection of infrastructure and environmental, economic, cultural, agricultural and community assets from damage arising from fires, and
- d) for the protection of the environment by requiring certain activities referred to in paragraphs (a)–(c1) to be carried out having regard to the principles of ecologically sustainable development described in section 6 (2) of the Protection of the Environment Administration Act 1999.’ (s.3)

7. The following sections of the Act are noteworthy on control of fire-fighting equipment, and in particular the powers of the commissioner, the service standards, and the requirements of councils:

#### Functions

- The RFS consists of the commissioner and other staff of the service and volunteer rural fire fighters (s.8).
- The functions of the RFS include ‘to provide rural fire services for New South Wales’ with such services being defined to include ‘services for the prevention, mitigation and suppression of fires in rural fire districts’ (s9).
- The commissioner is, in the exercise of his or her functions, subject to the control and direction of the minister (s11).
- The functions of the commissioner include: ‘The Commissioner is responsible for managing and controlling the activities of the Service and has such other functions as are conferred or imposed on the Commissioner by or under this or any other Act’ (s12).

#### Service standards

- In relation to service standards ‘[the] Commissioner may from time to time issue written policy statements to members of the Service for or with respect to procedures to be followed in connection with the operation, management and control of the Service’ (s13).

#### Brigades

- A local authority may form a rural fire brigade, and the commissioner may form one if the local authority refuses or fails to do so within the period prescribed by the regulations after being requested to do so by the commissioner (s.15).
- In relation to the area of operations and officers of groups of rural fire brigades: the fire control officer who forms a group of rural fire brigades is to determine the territory in which the group is to operate, and the officers of the rural fire brigades forming a group of rural fire brigades are those persons selected, in accordance with the service standards, to be officers for the group by the members of the rural fire brigades forming the group. A person selected to be an officer holds office for the period specified in the service standards (s.19).
- The functions of officers of rural fire brigades are conferred or imposed on the officer by or under this or any other Act. Functions may be conferred under the Act by the service standards (s.21).
- The general powers of rural fire brigade officers and others are described. Also, ‘Any function that may be exercised, or action that may be taken, by an officer of a rural fire

brigade or group of rural fire brigades because of this section may be exercised or taken by the Commissioner' (s.22).

- Responsibilities of fire control officers and local authorities are: 'A fire control officer is, subject to any direction of the Commissioner, responsible for the control and co-ordination of the activities of the Service in the rural fire district for which he or she is appointed as fire control officer', and '[the] local authority for the rural fire district for which a fire control officer is appointed must provide facilities and accommodation to enable the fire control officer to exercise his or her functions' (s.37)'.
- The commissioner may authorise officers and members of rural fire brigades to exercise certain functions (s.39).
- The commissioner is to take charge of bush fire-fighting operations and bushfire prevention measures and to take such measures as the commissioner considers necessary to control or suppress any bushfire in any part of the state (with four circumstances identified). The commissioner may delegate the functions to individuals described (s.44).
- The commissioner may give such directions as he or she considers necessary to fire control officers, deputy fire control officers, officers of rural fire brigades, local authorities, officers or members of Fire and Rescue NSW, members of the NSW Police Force and other persons in connection with the prevention, control or suppression of any bushfire in the area or locality in which the commissioner has taken charge or is taking measures under this division (s.45).

8. Under s63, local councils have the duty to prevent the occurrence of bush fires on any land, highway, road and street that is vested in, or is under the control of, that council.

9. Under s119(1) of the Act, fire-fighting equipment is defined as: *fire-fighting apparatus, buildings, water storage towers or lookout towers*. Fire-fighting apparatus is defined as: *all vehicles, equipment and other things used for or in connection with the prevention or suppression of fire or the protection of life or property in case of fire*.

10. This section also requires:

- All fire fighting equipment purchased or constructed wholly or partly from money to the credit of the Fund is to be vested in the council (s119(2)).
- A council must not sell or otherwise dispose of any fire fighting equipment without the written consent of the Commissioner (s119(2)).
- A council must take care of and maintain in the condition required by the Service Standards any fire fighting equipment vested in it under this section (s119(5)).
- The Commissioner may, with the concurrence of the council in which fire fighting equipment is vested under this section, use any of the equipment not reasonably required by the council to deal with incidents in the area of the council to deal with incidents outside the area (s119(6)).

#### Service standards

11. The RFS sets service standards that are available on its website. They number more than 80 and include the following, which I have grouped under headings.

Delegations and the like

- SS 1.3.1 *Delegations and Authorisations (including supplementary delegations-unincorporated area of NSW)* – The statutory powers created by the Rural Fires Act 1997 (the Act) are vested in the Commissioner, Local Authorities, Fire Control Officers and Officers of Brigades. This Service Standard identifies the Delegations (s 14 of the Act) and Authorisations (s 39 of the Act) of the Commissioner with respect to the NSW RFS. It also includes Delegations (s 44 of the Act) of the Commissioner with respect to co-ordinated bush firefighting.
- SS 2.1.1 *Formation and Disbandment of Brigades and Groups of Brigades* – The NSW RFS is committed to providing a fire service which has relevance to local communities and recognises that local situations can change, and there is a need to periodically review the placement of Brigades.
- SS 2.1.4 *Appointment of Field and Group Officers* – The Rural Fires Act 1997 provides for the appointment of Brigade Officers in accordance with the Service Standards.
- SS 1.3.4 *Rural Fire District Service Agreements* – The majority of Local Authorities which have responsibilities for Rural Fire Districts have entered into Rural Fire District Service Agreements (RFDSAs) with the NSW RFS under section 12A of the Rural Fires Act 1997. In accordance with these RFDSAs, the Commissioner assumes responsibility for the exercise of functions imposed upon those Local Authorities by the Act.

Equipment

- SS 1.1.16 *Fundraising Activities (Provision of Goods and Services)* – Members of the Service engage in a range of fund raising activities in order to assist rural fire brigades and groups of rural fire brigades to acquire additional equipment and facilities, to assist in the payment of running costs and to otherwise enhance the service they provide to the community.
- SS 5.1.4 *Fire Fighting Appliance Construction Standards* – This Service Standard ensures that the NSW RFS provides safe, cost effective, standardised, fit for purpose fire fighting appliances across a range of categories.
- SS 5.1.6 *Secondhand Appliance Transfer Program* – The NSW RFS is continuing the program to modernise, standardise and maintain the fire appliance fleet and has a secondhand appliance transfer program that provides for appliances to be transferred between Districts at certain nominated stages.
- SS 5.1.9 *Breathing Apparatus* – This service standard defines the proper acquisition, use, training and maintenance associated with breathing apparatus in the NSW RFS.
- SS 5.3.1 *Equipment Maintenance* – To ensure the safety and effectiveness of rural firefighting and related activities, all equipment and related facilities need to be maintained in a serviceable condition.

- S 5.4.1 *Asset Disposal* – The NSW RFS is committed to the proper management of surplus or deficient physical assets that might otherwise reduce efficient, effective and safe service delivery. One of the key elements of asset management is the timely, appropriate and cost effective disposal of assets in a frame work that ensures probity, honesty and conformity to Government Policy.

#### Staffing

- SS 1.1.7 Code of Conduct and Ethics – It establishes standards of behaviour expected of all members of the NSW RFS.
- SS 1.1.2 Discipline –Sets out the procedure to be followed when disciplinary action is taken against a volunteer member of the NSW Rural Fire Service (NSW RFS).
- SS 6.1.3 Training in the NSW RFS – Members of the NSW RFS are required to have the relevant competency to carry out the functions for which they have volunteered or for which they have been employed.

**12.** The existence of these service standards and the nature of their subject matter need to be considered as to whether they indicate control of service-potential assets by the RFS.

#### RFS Annual Report 2016-2017

**13.** The RFS Annual report 2016-2017 provided some relevant contextual information which has reproduced below.

**14.** Commissioner's Report stated:

'The year has also seen the continued investment in building new, or refurbishing brigade stations and fire control centres across the state.'  
'With a total of 6315 tankers, air and marine craft and other vehicles, we continue to assess and improve the effectiveness of the Service's fleet, making modifications, refurbishments and purchasing new as required.'

**15.** One noteworthy information was: There was 72,233 volunteers and 878 salaried staff; and 'In total across the reporting period, our members attended over 24,500 incidents, including bush and grass fires, motor vehicle accidents, hazard reduction activities and support for other agencies'.

**16.** The financial statements describe its accounting policy for rural fire-fighting equipment in note 1 as:

'The ownership of all fire fighting equipment purchased by the Rural Fire Fighting Fund is vested in the relevant local government council. The cost of such equipment is therefore expensed by the Service in the year of purchase.  
The exception to this is fire fighting equipment purchased for the State Mitigation Service which is recorded on the Service's asset register'.

**17.** Note 10 Restricted Assets described cash held as part of RFFF \$139,532,000 (2016 \$104,406,000 as: 'The Service holds funds that form the NSW Rural Fire Fighting Fund which is a special deposits account established under section 102 of the *Rural Fires Act 1997*.'

Funds in the Rural Fire Fighting Fund can only be expended for the purposes defined in the Act.’

#### Rural fire district service agreements

**18.** I am informed that councils *generally* enter a rural fire district service agreement with the RFS to undertake these responsibilities on behalf of the council. For completeness, it should be ascertained how many councils have these agreements and those that do not. In relation to the latter, how the assets in question are accounted.

**19.** The Act (s12A) specifies arrangements for entry into *rural fire district service agreements*:

- (1) Without limiting section 12, the Commissioner may enter into a rural fire district service agreement (a service agreement) with any local authority or authorities responsible for a rural fire district or districts.
- (2) Without limitation, a service agreement:
  - (a) may specify functions imposed on the local authority by or under this Act that are to be exercised by the Commissioner during a period (if any) specified in the agreement, and
  - (b) may specify any obligations to be imposed on the local authority as a consequence of the Commissioner agreeing to exercise those functions, and
  - (c) may set performance targets for the exercise of those functions, and
  - (d) may provide for the evaluation and review of results in relation to those targets.
- (3) The Commissioner and the local authorities must, as far as practicable, exercise the functions and carry out the obligations in accordance with the service agreement.
- (4) The Commissioner is to report the results of the performance under a service agreement during a financial year to the local authority or authorities concerned within 3 months after the end of that year.

**20.** I note that this section gives the commissioner various powers over the services to be provided.

**21.** In my opinion, the existence and specifics of these agreements support the argument that the RFS has control of the assets in question.

**22.** I have considered one such agreement – made with Tweed Shire council. General comments made by some councils about their agreements, as described elsewhere in this appendix, are consistent with the extracts below.

#### Example of a rural fire district service agreement (Tweed Shire Council)

**23.** Under the Rural Fire Services Act 1997, the commissioner may enter a rural fire district service agreement with any local authority(ies) responsible for a rural fire district(s) (s.12A).

**24.** I have been provided with the agreement between Tweed Shire Council and the commissioner and have summarised key issues.

**25.** As noted later, other councils report a common approach to agreements.

**26.** The agreement began on 1 July 2010 and continues until terminated under clause 14 (cl.3).

**27. The recitals include:**

- Parties entered into agreement under section 12A of the Rural Fire Services Act 1997 (NSW)
- Commissioner agreed to exercise all the functions imposed on Council under the Act, other than those specified in clause 4.2
- Commissioner agreed to undertake all the day-to-day management of the rural fire services operating in the District on behalf of the Council
- Council has agreed to provide certain administrative accounting and maintenance services to the Commissioner and RFS
- The Council has agreed to allow Commissioner and RFS to use the District Equipment and Premises
- The Council and the Commissioner have agreed to establish a liaison committee, and
- The Council has agreed to delegate certain functions powers duties to members of the RFS.

**28.** District equipment is defined as ‘Fire Fighting Apparatus and the other vehicles and equipment: owned by the State of NSW; owned by the Council; or vested in the Council and used by members of Rural Fire Service operating in the District’.

**29.** Premises are defined as ‘Land and buildings or parts of land and buildings specified in schedule 1.’ Nine brigade stations, one other station and one control station are identified.

**30.** The following details are also noteworthy.

Functions and management responsibilities are:

- The Commissioner exercises the Council’s functions and manages the district (cl. 4) in consideration of \$1 (cl.4.2). The functions include the day-to-day management of RFS in the District (cl.4.2). Certain functions are excluded (cl.4.2).
- The Council provides certain information to the RFS to help RFS to discharge its functions (cl.4.3).
- The Commissioner may, but is not obliged to, utilise or provide additional equipment or personnel in addition to the District Equipment and members of the RFS operating in the District (cl.4.4).

District equipment requirements are:

- Council to make available and allow the use of the District Equipment to Commissioner and RFS (cl.5.1).
- Commissioner agrees to maintain the District Equipment on behalf of the Council in accordance with applicable service standards (cl.5.1). The service standards are those issued by the Commissioner under s.13 of the Act (cl.5.2).
- The RFS will maintain a register of District Equipment with a copy provided to Council every six months (cl.5.3).

Land and buildings requirements are:

- Council agrees to allow the Commissioner and RFS to occupy and use the Premises, or other land and buildings as may be agreed (cl.6.1). Council grants a licence to enter and use (cl.6.2). Commissioner has a personal right of occupation on the terms specific in this licence; but no tenancy, estate, or interest in the land on which the Premises are situated (cl.6.3). Legal right of possession and control over the Premises and land on which they are situated remain vested in the Council (cl.6.4).
- The responsibilities of Council are: not to interfere with the Commissioner’s use; pay rates, taxes etc; maintain premises in good repair (as described in cl.6.7); and insure buildings and have the designated public risk insurance coverage (cl.6.5).
- The Commissioner must not occupy or use the Premises other than the provision of fire-fighting services and for related incidental purposes; not assign the licence or grant a sub-

licence; carryout minor repairs (as described in cl.6.8); comply with all relevant laws regarding the Commissioner's use of property; and not alter the premises without the consent of Council (that shall not unreasonably be withheld) (cl.6.6). There are specific provisions regarding access Tweed Fire Control Centre (cl.6.7).

Finance requirements are:

- Annually the Council makes a bid of estimated probable expenditure on District for next financial year to the Commissioner. Following consultation with the Council, the Commissioner submits a probable allocation of expenditure and a probable contribution by the Council to the Rural Fire Fighting Fund. If the Council and Commissioner disagree on these, a determination on the contribution is made by the Minister (cl.8.1 to 8.3).
- The Commissioner, following consultation with Council, provides a four-year budget forecast expenditure, updated annually. Consultation with Council includes: Council's capacity to contribute to the fund; RFS and government policies for replacement of District Equipment, District's requirements by reference to Standard of Fire Cover and other policies; and standards of fire stations and other facilities. The Commissioner provides a draft 10-year capital work program updated annually (cl.8.4 to 8.6).
- The Council can provide funds for the delivery of rural fire services in the District in addition to statutory contribution. The Commissioner must manage those funds in accordance with the directions of the Council (cl.8.7).
- The Commissioner (and at his/her sole discretion) has unrestricted to and may expend monies received by the Council from the fund for delivery of rural fire services in the District. The Commissioner may also expend additional monies (cl.8.8).
- Funding for repairs and maintenance is a reimbursement basis (cl.8.9).

Insurance and related requirements are:

- Effect and keep current the following: property damage and public liability insurance for the property; compulsory third party and comprehensive insurance for motor vehicles that form part of District Equipment, except where agreed otherwise by the Council and the Commissioner; property damage and public liability insurance, third party and comprehensive insurance, for all Premises and District Equipment controlled, occupied, or managed by the Commissioner or RFS (cl.10.1).

In summary, the RFS:

- Is responsible for the day-to-day management of the RFS in the district, including deployment
- Can provide additional equipment to meet its responsibilities under the agreement
- Is responsible for maintenance of district equipment to the standards set by the RFS
- Maintains a register of district equipment, and
- Procurement decisions are made by the RFS with disputes settled by the Minister.

In summary, the council:

- As the legal owner has agreed that the RFS can use the district equipment
- Provides certain information to assist the RFS with its tasks in the district, and
- Engages in the procurement process.

**31.** The recitals and details reveal the nature of the relationship between the RFS and the council. In essence, the council's responsibilities under the Act have been contracted out to the RFS. The RFS has control of equipment and premises. It is the RFS that enjoys the service potential of these assets.

**32.** As the legal owner, the council has granted the RFS the right to occupy and use the premises (10 fire stations and one control centre). Outgoings and insurance are met by the council as are major repairs.

33. Where the land and building, constitute fire-fighting equipment provided by RFS, my comments on the accounting for red-fleet vehicles are likely to be equally relevant for their appropriate accounting.

34. Where the land and building were not provided by the RFS, further information is required about how these premises were acquired and whether on council land; and the implications assessed under AASB 117 and soon to be operative standards – AASB 16 and AASB 1058.

#### **Rural Fire Fighting Fund**

35. The NSW Rural Fire Fighting Fund (RFFF) holds all contributions required to meet the costs of co-ordinating bush firefighting and prevention throughout the state and to provide rural fire services for New South Wales (s.102)

36. A special RFFF deposit account is maintained by Treasury and used to acquire and build red-fleet vehicles, other assets and to fund RFS activities.

37. To assist the minister in preparing and adopting the rural fire brigade funding target for a financial year, the commissioner must prepare and give to the minister a written report and recommendations about rural fire brigade expenditure for the year and the estimated expenditure for each rural fire district and each relevant council (s.105).

38. The RFS has control over this account based on an annual budget approved by the minister.

39. As per the provisions of the Act, RFFF is funded by contributions from insurance companies (73.7 per cent), councils (11.7 per cent) and Treasury (14.6 per cent). These are recognised as income by the RFS.

40. The assets acquired or built using the RFFF are of two types:

- White-fleet vehicles, which are operational and commercial and are not designed to fight fires. These assets do not benefit councils and are used state-wide and recorded in RFS financial statements.
- Red-fleet vehicles, which are firefighting assets bought or constructed for the benefit of a particular council. As per s119 of the Act: *All firefighting equipment purchased or constructed wholly or partly from money to the credit of the Fund is to be vested in the council of the area for or on behalf of which the firefighting equipment has been purchased or constructed.*

41. Fire-fighting equipment is procured or built and overseen by the RFS.

#### **Arguments advanced that councils control the fire-fighting equipment**

#### **NSW Treasury and Rural Fire Service**

42. NSW Treasury and RFS formed the view that '[w]hile the arrangements are finely balanced, Treasury has concluded RFS's treatment of not recognising the fire-fighting assets was appropriate' (letter dated 29 September 2017 to the acting chief executive of the OLG).

43. Treasury cited AASB 116 *Property, Plant and Equipment* (para 7) and AASB *Conceptual Framework* (paras. 49 and 89); and Rural Fire Services Act 1997 in forming its view.

44. Treasury's observations were:

1. Legal ownership sits with the Local Authorities (LA), a strong indication of control
2. RFS permission for disposal is only seen as a protective right
3. It is difficult to ascertain future economic benefits for a NFP. These FF assets allow RFS to comply with their governing legislation/ mandate in Rural Fires Act 1997 and to undertake various Statutory obligations imposed on Councils under the Act, for and on behalf of Councils. There are also potential benefits for Councils.
4. Use/control of assets – SLAs appear to give RFS unrestricted access to the assets. This however is predicated on the LA having the right to grant that access
5. Maintenance of the assets – Councils appear to take responsibility for maintenance
6. Insurance – for FF assets, this is paid and organised centrally by RFS to TMF (paid from the RFFF) for and on behalf of all Councils who have the insurable interest. RFS has no insurable Interest.'

45. The conclusion reached was:

'We acknowledge the ownership of assets is a matter of judgement. However, based on the above our view is that RFS should continue to not recognise the FF assets that have been vested to the Councils, as they receive little future economic benefit, are bound to the service level agreement as agreed with the Councils and do not have control to move the assets to other Councils without permission. This treatment would then be consistent with other assets that are used by RFS, namely land and buildings.

#### NSW Audit Office

##### Internal position paper

46. The audit office has produced an internal position paper titled *NSW Rural Fire Service Accounting treatment of Rural Fire Services Assets*.

47. The issue addressed was 'Since Red Fleet vehicles are vested in the council, RFS do not record these in their financial statements. Many councils also do not record the Assets'.

48. Control and other considerations were described:

- 'Even though S119(2) of the Act vests the Assets in the council for whom these have been purchased or constructed, S119(3) prevents the council from selling or disposing of the Assets without written consent from the RFS Commissioner.
- As per the *Framework for the Preparation and Presentation of Financial Statements*, for a not-for-profit entity in the public sector, future economic benefits from an asset is synonymous with the notion of its service potential. These Assets allow RFS to comply with their governing legislation and fulfil their mandate as per the Act. At the same time these Assets help fulfil council's duty under the Act, to prevent the occurrence of bush fires on land

controlled by the council. Economic benefits from the Assets are therefore enjoyed by both the council and RFS.

- Under S12A of the Act, the RFS Commissioner may enter into a Rural Fire District Service Agreement (Agreement) with any council responsible for a rural fire district. These Agreements are contractual licences that set out the understanding between the parties as to maintenance, use and access to firefighting equipment and premises.
- Under S63 of the Act, land owners have the responsibility of preventing the occurrence of bush fire. To comply with the requirements of the Act, councils are obliged to perform hazard reduction activities. Councils do not possess firefighting and hazard reduction expertise and therefore delegate the conduct of this activity to RFS through an Agreement under which the council provides RFS access to council Assets. Under the Agreement, the council agrees to make available to and allow the RFS Commissioner to use the Assets which are owned by, vested in or under the control of the council.
- A Rural Fire Brigade (RFB) is generally constituted by the council. The Commissioner has the power to constitute a RFB if the council fails to do so. A RFB can be disbanded by the person or body who constituted it. A RFB is mainly comprised of volunteers and its activities are supervised and co-ordinated by a Fire Control Officer (FCO), who is an RFS employee and reports directly to the RFS Commissioner. The Commissioner controls and directs the functions of the RFB. Under S38 of the Act, a council is obliged to provide facilities and accommodation to enable the FCO to perform his or her functions. Such facilities and accommodation should be of a standard approved by the Commissioner.
- As per S119(5) of the Act, it is council's responsibility to take care and maintain the Assets. The Act authorises the RFS Commissioner to set maintenance standards for the Assets. The Council lacks expertise to maintain such specialised nature Assets. Being the owner of the Assets, the councils transfers their maintenance obligation to RFS through the Agreement. RFFF is funded through an annual RFS budget, which includes planned maintenance expenditure for firefighting equipment held RFS districts. Councils contribute (11.7%) annually to these budgets which includes the maintenance component. Hence, any subsequent maintenance expenditure incurred by the council is reimbursed by RFS using these funds.
- Like planned maintenance expenditure, the expected insurance cost for the Assets is included in the RFS annual budget. Council, by way of its contribution (11.7%) to the RFFF, contributes to such insurance expenditure. While councils own the Assets, for administrative reasons, Treasury Managed Fund (TMF) and councils have agreed to an arrangement whereby RFS is permitted to acquire insurance coverage for the Assets in its own name. RFS pays the insurance premium from the RFFF and is nominated as an insured party under the insurance policy. RFS does not derive any insurable benefit under the insurance policy. In the event of a loss of an Asset (vested in the council), the insurance proceeds are used to reacquire or build a similar Asset, which then again vests in the same council. The arrangement between RFS and a council does not constitute a lease arrangement, since RFS is not paying any consideration to the council for the use of council's assets.
- The Agreement does not satisfy the conditions of a Joint Arrangement under the Australian Accounting Standards (AASB 11).'

**49.** There are appendices to the position paper *Appendix 1 – Illustration of the overall arrangement* and *Appendix 2 – Indicators of control*. The latter contains an assessment of control from the perspectives of the RFS and councils, applying:

- Legal ownership
- Future economic benefits and/or service potential
- Daily access and use
- Control of movement
- Maintenance, and

- Insurance.

**50.** The NSW Audit Office reached the following conclusion:

‘Vesting provisions under the Act, substantiated by an Agreement whereby the council allows RFS to use these assets for and on behalf of the council, supports the conclusion that these assets are controlled by the council. In addition, council’s responsibility of maintaining these assets and receiving the benefit of an insurance claim (in the event of a loss), further corroborates this conclusion.’

**Audit Office final management letter for 30 June 2017**

**51.** Tamworth Regional Council has provided the following extract from the Audit Office’s management letter dated 30 June last year in its submission to the OLG on the 2017-2018 draft code:

‘As at the 30 June 2017, the Council has exercised the option available under the Local Government Code of Accounting Practice and Financial Reporting not to recognise certain rural fire service assets. RFS assets, specifically the red vehicles, are vested in Council. Combined with other indicators there is a presumption that they are controlled by Council and should be recognised in the Council’s financial statements. This is supported by an analysis of Rural Fire Services Act 1997 and service agreements between the councils and RFS.’

‘The following are indicators of ‘control’ by the Council:

- Assets are vested in the Council as per Rural Fire Services Act 1997, giving Council legal ownership
- As the land owner, Council has the responsibility of fire mitigation and safety works under Rural Fire Services Act 1997
- The service agreement allows the RFS use of the assets for fire mitigation and safety works within the Council’s area
- Council is responsible for maintaining the assets but has transferred this responsibility to RFS through the service agreement
- In the event of loss of an asset, the insurance proceeds are used to reacquire or build a similar asset, which is again vested in the Council.’

**Arguments advanced that councils do not control the fire-fighting equipment**

**Albury City**

**Introduction**

**52.** Albury City has prepared a *Position statement on the recognition of Rural Fire Service assets*. Excerpts reproduced below reveal the council’s view that equipment is not a council asset but land and buildings are.

**Background**

**53.** ‘Rural Fire districts and Rural Fire Brigades are established generally in line with local council areas. Albury City shares a fire zone and Rural Fire District Service Agreement with Greater Hume Shire Council. Greater Hume Shire Council provides the majority of administrative support required under the service agreement. Albury City maintains

buildings within its Local Government Area boundary and services RFS Vehicles through its maintenance depot upon request. Albury City charges the RFS for vehicle servicing costs.'

**54.** 'Rural Fire Services costs are shared between Albury City and Greater Hume Shire, with Greater Hume Shire paying 80% of the cost and Albury City 20%. The basis of this allocation is tied to the number of fire services identified in each Council area, Greater Hume Shire 19 and Albury City 5.'

**55.** 'Albury City accounts for land and buildings used by the RFS situated within the Albury City boundary, however does not account for Rural Fire Service plant or other equipment'.

#### Application of accounting literature

**56.** The following points are made with reference to the framework.

1. 'An asset is defined as a resource that is controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity (49).
2. Attention needs to be given to its underlying substance and economic reality and not merely its legal form (51).
3. In respect of not-for-profit entities, economic benefit is synonymous with service provision or enabling them to meet their objectives to beneficiaries (54).
4. The right of ownership is not essential to the determination of control (57)'.

**57.** Reference was also made to AASB 116 *Property, Plant and Equipment*:

'[R]equires that an asset can only be recognised if it is probable that future economic benefits associated with the item will flow to the entity.'

**58.** Reference was also made to SAC 4 *Definition and Recognition of the Elements of Financial Statements* and definition of a 'control of an asset' ('the capacity of the entity to benefit from the asset in the pursuit of the entity's objectives and to deny or regulate the access of others to that benefit'). I note that SAC 4 has been withdrawn.

#### Facts and circumstances

**59.** Albury City's statement notes that the Act provides for:

- 'All firefighting equipment acquired from the fund is to be vested in the council of the area (S119)
- A council must not dispose of such equipment without the written consent of the Commissioner, and
- Albury City and Greater Hume Shire are entitled to a share of 11.7% of the disposal proceeds.'

**60.** The agreement between Albury City and the commissioner includes a basic section on district equipment (section 5):

- 'Council will allow the RFS to use the equipment which is owned by, vested in or under the control of the Council
- The Commissioner agrees to maintain the equipment on behalf of the council, and
- The RFS will maintain and supply to Council a register of the equipment.'

**61.** The statement further reads:

'This can be compared to a very detailed section on Land and Buildings (section 6) which specifically states that the legal right to possession and control over the premises and land

remains vested in Council and the RFS only has right of occupation. In addition: council must maintain the premises in good repair; council must pay all utility costs associated with the premises; and Council must pay all insurances associated with the building and public risk’.

**62.** In relation to land and buildings, it states:

‘The Rural Fire Service Agreement clearly identifies that Council retains full legal right to possession and control over premises occupied by the RFS. Councils are required to maintain buildings, pay all utility costs associated with the building and pay all insurances on the buildings and public risk associated with the use of the building [...] This is similar to a lease agreement, and as such Council retains control of the building and is required to hold the land and associated building as an asset’.

**63.** In relation to equipment:

- ‘Section 119(3) of the Rural Fires Act 1997 (NSW) stipulates that Council must not sell or otherwise dispose of any firefighting equipment ... without the consent of the Commissioner. Section 119 (4) requires any funds received from sale must be credited to the RFS fund’
- ‘The RFS Zone manager makes all decisions about capital improvements and new assets, while Council may be consulted in these decisions it takes no part in the final decision’
- ‘The RFS insures all plant and equipment’, and
- ‘In practice the RFS makes all decisions to switch fleet and equipment to other fire districts as it feels necessary. Council has no access to and is not permitted to use of any plant and equipment held by the RFS.’

**Conclusion**

**64.** The statement concluded:

‘It is clear that the AASB Accounting Standards require a standard higher than ownership when accounting for assets. Entities may own an asset, but unless they have control of that asset and can clearly identify future economic benefits flowing to the entity from that asset, then it cannot be included in the entities assets schedule.’

‘Council has taken the view that it has no control over the purchase, use or sale of any RFS equipment. As such the requirements SAC 4 have not been met and RFS equipment should not be included as assets in Councils accounts.’

‘Albury City retains effective control of associated Land and Buildings, but that the RFS retains control of plant and equipment. Accordingly, Albury City’s practice is to recognise associated Land and Buildings in its asset schedules, but not Plant and Equipment.’

‘It is also considered that in regard to the objectives of financial reporting, councils obligation and commitment to the rural fire fighting function is fully and accurately reflected in the statutory contribution expense made and the net cost of other relevant facilities provided under the local agreement.’

**Bellingen Shire Council**

**65.** Bellingen Shire Council prepared a *Position Statement Rural Fire Service Assets Treatment* (November 2017). It is very similar to other councils’ positions, and therefore the commonalities not repeated.

**66.** The following extracts are, however, noteworthy.

‘For Bellingen, RFS assets total approximately \$7.6M, with an annual depreciation expense of \$0.5M per year. Bellingen Shire Council has taken the approach to *not* recognise any RFS assets on their books.’

‘Under Bellingen Shire Council’s Service Level Agreement with the RFS, the following conditions are in place:

- Council has agreed to allow the RFS and the Commissioner to use the district equipment
- Council has agreed to allow the RFS and the Commissioner to use the premises (per schedule 1 in agreement)
- The Commissioner agrees to maintain the equipment on behalf of the Council
- The RFS will maintain and supply to Council a register of the equipment
- With reference to the financing arrangements, the Commissioner will, by the 28 February each year, submit to Council: a probable allocation of expenditures for the district for the next financial year; and a probable contribution by the Council to the fund, and
- In the event the Commissioner and the Council cannot agree upon the contribution of the Council to the Fund within 28 days of the Commissioner delivering the probable allocation by Council, the Minister (Police and Emergency Services) will make a determination on behalf of the parties.’

‘Further to the above, the following observations can be made about the RFS fleet and buildings:

- All RFS vehicles are managed through State Fleet NSW. Council has no control of the type of fleet purchased. Vehicles are insured and registered through State Fleet.
- Council has no control over the vehicles allocated to their RFS district: Council does not have keys or usage of these assets. Vehicles allocated to the district can be used throughout the State without Council consultation or permission.
- Council does not hold keys to the buildings, make decisions about the use of them, has no access to use of, nor earn any income from RFS buildings.’

**67. The statement concluded:**

1. ‘The Accounting Standards require a standard higher than ownership when accounting for assets. Entities may own an asset, but unless they have control of that asset and can clearly identify future economic benefits flowing to the entity from that asset, then it cannot be included in the entities assets schedule.
2. Whilst the RFS Act refers to assets being ‘vested’ in Council, there is no mention of the Council having ‘ownership’ of these assets.
3. As per the RFS Act, Council does not receive the proceeds from the sale of the assets. You cannot have control of an asset without also having control of the proceeds.
4. Council do not insure or register the fleet assets, nor do Council hold keys or have access to any of these vehicles. Fleet are used throughout the state without the permission or knowledge of Council. This fails the very basic of asset control tests.
5. Council does not hold keys to the buildings, make decisions about the use of them, has no access to use of, nor earn any income from RFS buildings.
6. RFS (not Councils) receive future economic benefit from firefighting equipment assets in terms of both net cash flows and service provision.
7. Whilst Council has a detailed Rural Fire District Service Agreement, this appears to be an “on paper arrangement only” and does not represent what is happening in practice.
8. RFS make all the decisions about capital improvements and new assets. While Council is consulted, it has no final decision.
9. Should there be any disagreement as to Councils contribution to the fund, the Minister for Police and Emergency Services has the final say.’

**68. And finally:**

‘It is clear that even the most basic of control tests have not been met, the evidence is also compelling that the RFS receives the flow of future economic benefits, not Council. Based on the evidence, Council, in complying with the Accounting Standards, has no choice but to not recognise the RFS Assets.’

### Clarence Valley

#### Background

69. Clarence Valley Council wrote a *Position Statement on the Recognition of Rural Fire Service Assets* dated 3 October 2017. The council stated:

‘Clarence Valley Council maintains buildings within its Local Government Area boundary whilst plant and other equipment is fully owned and maintained by RFS. Clarence Valley Council accounts for land and buildings used by the RFS situated within the Clarence Valley Council boundary.’

#### Application of accounting literature

70. Clarence Valley Council used the same accounting references as Albury City. They are not repeated.

#### Facts and circumstances

71. Cogent extracts from the statement include:

‘The Rural Fire District Service Agreement (RFS 2) between Clarence Valley Council and the Commissioner includes a basic section on District equipment (section 5) and section on Land and Buildings (section 6)’. (The descriptions are the same as Albury City and not repeated.)

‘The RFS is funded directly by the State; both operating and capital acquisitions are made directly by RFS Officers. Council has no input into the operations or capital acquisitions of the RFS. The Fire Services Act provides that The NSW Rural Fire Service has the function to provide rural fire services for New South Wales (9(1) (a)). It is considered therefore that it is the Rural Fire Service and not councils that receive future economic benefit from firefighting equipment assets in terms of both net cash flows and service provision.’

#### Conclusion

72. Clarence Valley Council has reached the same conclusion as Albury City. It is not repeated.

### Tamworth Regional Council

73. Tamworth Regional Council prepared a *Position statement on the recognition of Rural Fire Service assets*. It is very similar to other councils’ positions and is therefore not repeated.

### OLG conversations with councils about the Rural Fire Service’s assets

74. The OLG spoke to four councils (28 August 2017) on three issues. Did they recognise land and buildings? Did they write off the trucks in financial statements? Was this arrangement covered by an agreement with the RFS or a district or council?

**75. The responses were:****Narrandera Shire Council (Hiscox):**

'Recognise building and land only – not the red fleet. They don't believe they should recognise the fleet as it does not meet the 8 criteria of control as per the standards. They are covered by a zone agreement which would need to be updated as there are former councils on it. They will provide us with a copy.'

**Leeton (Stewart):**

'Recognise buildings only (they own the land). They do not believe they control the red fleet under the definition of the Standards, they have absolutely no control over the red fleet. They were even told by RFS that they did not have to insure them anymore and that RFS would. When the assets are sold the money goes to RFS and they replace the old with the new.'

**Cowra (Scott):**

'Recognise all assets including the red fleet – they wanted to change the policy but were told that they couldn't – once they have them in the books they had to stay. In their opinion they do not control the red fleet. They depreciate the fleet on the same basis as heavy vehicles. These vehicles turn over quite regularly and are quite expensive. RFS have the final say over these assets.'

Email from Cowra (Stuart) to OLG (Love) dated 29 August 2017. 'Following up on our conversation yesterday regarding RFS assets here is a bit of additional information:

- Bushfire sheds are located on land owned or controlled by Council
- Bushfire sheds are included on council insurance schedule
- Council is generally responsible for maintaining the shed although some reimbursement does come from RFS
- RFS trucks are not under the control of council and can be required to attend fires or other emergencies at other NSW & interstate locations at the direction of RFS
- RFS trucks are not registered by council
- RFS are not insured by council
- RFS trucks are not maintained by council
- RFS truck maintenance & fuel costs are paid by council (due to the ridiculous funding arrangement) but reimbursed by RFS.'

**Tweed (Chorlton):**

'Recognise the buildings and land – not the red fleet. Does not believe that Council has control of the fleet. Believes the legislation needs to be changed to take out the [vesting] and should be the same as SES. [Agreed] that vested does not mean that councils have control.'

**Narrandera Shire Council (Hiscox) email from to Crowe Horwarth (Lucas) headed *Assessment of the RFS Red Fleet as a council asset* and dated 22 September 2017. The email stated:**

'Council has considered the following in determining that the RFS Red Fleet should not be booked as an asset on council's balance sheet.

- The items in the Red Fleet are specified and procured in a timeframe determined by the RFS in accordance with the RFS budget. Sale of items is determined by the RFS and proceeds of sale flow to the RFS
- Future economic benefits derived from the Red Fleet accrue to the RFS as the Red Fleet is used to address RFS objectives and service delivery exclusively
- Council has no access to the Red Fleet for any of its purposes
- The RFS determine where the Red Fleet is deployed within the shire and may task the fleet outside the shire

- Council maintain the Red Fleet under direction from the RFS and within a budget set by the RFS
- Council maintains brigade stations under councils building maintenance program and insures the buildings under council's policy
- The RFS has directed council not to insure the Red Fleet under council's motor vehicle cover.'

City of Parramatta (Matthew Walker) exchanged a series of emails with Audit NSW (Celia Withers) headed Rural Fire Assets and dated 23 and 24 September 2017. Relevant extracts from the City of Parramatta correspondence are:

- Extract from section 119(3) of the Rural Fire Services Act 1997 (NSW): 'A council must not sell or otherwise dispose of any firefighting equipment purchased or constructed wholly or partly from money to the credit of the Fund without the written consent of the Commissioner [...] This would indicate that Council does not have control of the assets as it does not possess the right to dispose of assets without consent of the RFS.'
- Extract from section 119(5) of the Rural Fire Services Act 1997 (NSW): 'A council must take care of and maintain in the condition required by the Service Standards any firefighting equipment vested in it under this section.'
- 'In operation this is done in accordance within a service agreement with the Local Rural Fire Service Command. This maintenance is included in the annual budget prepared by the Local Rural Fire Command which is submitted to the central Rural Fire Service for approval and includes requests for Capital items to be funded by the Rural Fire Service. Access to Rural Fire Service buildings and equipment is restricted to the personnel (including volunteers) of the local rural fire area command and this indicates that Council cannot just access the assets for utilisation in the course of its daily operations.'
- 'Further highlighting issues with determination of control and the difference of crown land assets under council's care and control, where the access is not restricted nor is an annual budget prepared by another entity for services to be provided.'

#### **Council comments on the draft *Code of Accounting Practice***

**76.** The OLG sought comments on the draft *Code of Accounting Practice* and some councils responded. The following comments and extracts are cited to help further understanding of the councils' views.

**77.** *Armidale Regional Council's* Mr Peter Dennis, CEO, stated in a submission to OLG dated 2 February 2018 that:

- AASB 116 *Property, Plant and Equipment* defines 'assets' and 'control of assets' and is the basis for Council's arguments on these terms. (I note that AASB 116 no longer defines these terms).
- 'With regards to Rural Fire Services assets (buildings, plant and equipment), Council is unable to determine there is a future economic benefit, an ability to gain control over the assets, or demonstrate there is a transaction that will give rise to control in future.'
- 'The Council's preferred position is that Rural Fire Services operates and is funded as NSW Fire Brigade and State Emergency Service. Where all that council is required [to do is] to make a financial contribution annually.'
- 'In applying AASB 116, Council should make no reference to Rural Fire Service assets, or recognition in the asset register. In addition, all reference to Rural Fire Service should be removed from the Code.'

**78.** *Cessnock Council's* Mr Robert Maginnity, director of corporate and community services, provided the following comments:

- 'I agree RFS assets should be recognised, but it should be with the RFS who have control of those assets. This is particularly so for the vehicle fleet. Council has no control of the purchase, disposal or usage of such asset, so to mandate recognition flies firmly in the face of not only common sense, but also the fundamental accounting concept of control.'
- 'RFS assets should only be accounted for by a council if in accordance with the accounting standards they determine that they have control of those assets and can clearly identify future economic benefits flowing to the council from those assets. Due to differing arrangements that are in place at the local level across the State, this may need to be assessed by each council on a case by case basis.'

**79.** *Finance Network Executive and Local Government Professionals Australia, NSW*, stated (undated):

'It is the view of the Finance Network Executive and Local Government Professionals Australia, NSW, that Rural Fire Service assets should only be accounted for by a council, if in accordance with the accounting standards, they determine that they have control of those assets and can clearly identify future economic benefits flowing to the Council from those assets.'

**80.** *Mid North Coast Regional Organisation of Councils (MIDROC)* made a submission to the OLG dated 30 January 2018. The submission contained background information and cited what MIDROC considers to be relevant accounting literature. They are not repeated here; these matters have been previously described.

**81.** MIDROC provided the following summary of a service-level agreement:

'Under councils Service Level Agreement with the RFS, the following conditions are in place:

- Council has agreed to allow the RFS and the Commissioner to use the district equipment;
- Council has agreed to allow the RFS and the Commissioner to use the premises (per schedule 1 in agreement);
- The Commissioner agrees to maintain the equipment on behalf of the Council; and
- The RFS will maintain and supply to Council a register of the equipment.
- With reference to the financing arrangements, the Commissioner will, by the 28 February each year, submit to Council: a probable allocation of expenditures for the district for the next financial year and a probable contribution by the Council to the fund. In the event the Commissioner and the Council cannot agree upon the contribution of the Council to the Fund within 28 days of the Commissioner delivering the probable allocation by Council, the Minister (Police and Emergency Services) will make a determination on behalf of the parties.'

The following observations were made about the RFS fleet and buildings:

- 'All RFS vehicles are managed through State Fleet NSW – Council has no control of the type of fleet purchased; and vehicles are insured and registered through State Fleet.
- Councils have no control over the vehicles allocated to their RFS district – Council does not have keys or usage of these assets; and vehicles allocated to the district can be used throughout the State without Council consultation or permission.
- Councils do not hold keys to the buildings, make decisions about the use of them, has no access to use of, nor earn any income from RFS buildings.'

**82.** MIDROC summarised its findings as follows:

- 'The Accounting Standards require a standard higher than ownership when accounting for assets. Entities may own an asset, but unless they have control of that asset and can clearly identify future economic benefits flowing to the entity from that asset, then it cannot be included in the entities assets schedule.

- Whilst the RFS Act refers to assets being “vested” in councils, there is no mention of the councils having “ownership” of these assets.
- As per the RFS Act, councils do not receive the proceeds from the sale of the assets. You cannot have control of an asset without also having control of the proceeds.
- Councils do not insure or register the fleet assets, nor do councils hold keys or have access to any of these vehicles. Fleet are used throughout the state without the permission or knowledge of councils. This fails the [most] basic of asset control tests.
- Councils do not hold keys to the buildings, make decisions about the use of them, has no access to use of, nor earn any income from RFS buildings.
- The RFS (not councils) receive future economic benefits from firefighting equipment assets in terms of both net cash flows and service provision.
- Whilst councils have detailed Rural Fire District Service Agreement, this appears to be an “on paper arrangement only” and does not represent what is happening in practice.
- RFS make all the decisions about capital improvements and new assets. While councils are consulted, it has no final decision.
- Should there be any disagreement as member council contributions to the fund, the Minister for Police and Emergency Services has the final say.’

**83. MIDROC concluded:**

‘It is clear that even the most basic of control tests have not been met, the evidence is also compelling that the RFS receives the flow of future economic benefits, not councils.’

**84. Tamworth Shire Council, Mr Rick Sanderson, stated in a submission dated 2 February 2018:**

‘Council considers that the only valid point (sic a reference Audit Office final management letter of June 2017) in this is legal ownership and ignores other significant elements of the accounting concept of control. Council’s position on this issue is attached showing that we strongly believe that controls lies with RFS (Appendix A).’

**85. Temora Shire Council, G C Lavelle, general manager, stated (2 February 2018):**

‘In the Council’s view Rural Fire Service assets should only be accounted for by a Council, if in accordance with the accounting standards, they determine that they have control of those assets and can clearly identify future economic benefits flowing to the council from those assets. Temora Shire Council does not have control over the purchase sale, or usage of the Rural Fire Services Assets. We do believe we should recognise these assets in our financial statements.’

**86. Tweed Shire Council’s, Mr Brian Unwin, senior accountant, wrote:**

‘[The reasons] for local government not reporting RFS assets include, but are not limited to:

- Councils are unable to dispose of or restrict access to these assets – there is no control
- Councils are unable to effectively maintain an asset register for these assets – they have no access to the asset inventories and must rely on accurate and timely information being provided to them by RFS
- As Councils have no authority over the RFS they can’t compel the RFS to provide this information
- It is unlikely that RFS will inform Councils when transfers of mobile assets occur between LGAs
- As RFS purchase these assets, acquisitions must be shown on Councils’ income statements as non-cash contributions
- As RFS receives the cash for the disposal of these assets, Councils must disclose a loss on disposal when this occurs.

---

Whether or not legislation vests the legal ownership of these assets to local government, RFS clearly has control of these assets and should be fulfilling its reporting obligations.'

\*\*\*\*\*

DRAFT

## Attachment 2 - Letter from CMA re RFS assets

Letter from CMA re RFS assets.msg

**From:** "Alistair Cochrane"  
**Sent:** Tue, 27 Jun 2023 14:37:57 +1000  
**To:** "Alistair Cochrane" <Alistair.Cochrane@edwardriver.nsw.gov.au>  
**Subject:** FW: Letter from CMA re RFS assets



## COUNTRY MAYORS - MEMBERS FEEDBACK REQUIRED

### Attention Mayors, Councillors and General Managers

MEMBER for Northern Tablelands Adam Marshall will introduce a Private Member's *"Bill"* into State Parliament this week, amending the Rural Fires Act 1997, to transfer the ownership of NSW Rural Fire Service (RFS) vehicles, fire trucks and buildings from local councils back to the State Government.

His media statement is attached and can be read below, the CMA Executive request your Councils feedback to guide our response and support or otherwise. Please respond to the following two questions.

- Does your Council support the Private Members Bill – YES or NO
- Please provide the total value of depreciation expenses for your RFS Assets required in your annual financial accounts  
(This should include all RFS assets which if vested with RFS would no longer require recognition in your accounts)

---

**BILL TO TRANSFER RFS 'RED FLEET' OWNERSHIP TO STATE GOVERNMENT**  
*Marshall to introduce legislation into Parliament this week*

Mr Marshall made the announcement today at the Kentucky RFS station alongside the region's Mayors, who have put their support behind the *NSW Rural Fires Amendment (Red Fleet) Bill 2023*.

"The 'red fleet dispute' has been an ongoing debacle – a political football – over the last 12 months between the State Government and local councils over who own and pays for RFS assets," Mr Marshall said.

"My Bill will remedy the situation, bringing the argy-bargy to an end by making it clear that RFS assets belong to, and should be accounted for by, the State Government, via the NSW Rural Fire Service."

"This will bring the treatment of all these items inline with how the vehicle and building assets of all other emergency services in NSW are accounted for and remove an enormous and ridiculous cost burden from our local councils."

"Why should a local councils use ratepayer dollars to account for a depreciate an 'asset' which they do not purchase, manage or have the authority to dispose of?"

"And why do councils legally own these vehicles but not police cars or Fire & Rescue NSW pumpers?"

Mr Marshall said his Bill would amend Section 119 of the *Rural Fires Act 1997* to transfer the ownership of all NSW Rural Fire Service vehicles and buildings to the NSW Rural Fire Service.

"This will ensure these assets are vested solely with the RFS, which will be required to account for these assets, and the associated depreciation and costs, on its books," Mr Marshall said.

"Currently the NSW Auditor General requires all local councils to do this, costing them a small fortune, or risk having their accounts qualified."

"Last year 43 local councils had their accounts qualified for the 2021/22 financial year due to them not accounting for and depreciating all RFS assets in their local government areas on their books."

"The depreciation costs alone, cost each council and their ratepayers hundreds of thousands of dollars, which is money which could be better spent delivering services or fixing local roads."

"In the Northern Tablelands, more than \$4 million annually would be saved if this Bill were to pass the Parliament."

"In essence, this Bill reverses a huge and archaic cost-shifting anomaly buried deep within the Act and puts the full cost back on the level of government responsible for the RFS; the State Government."

"There has been so much talk lately of the financial sustainability of local councils moving into the future, so this Bill has come at a perfect time."

"I hope the government and opposition support my Bill so we can resolve this dispute once and for all."



**Jamie Chaffey** Mayor

**Gunnedah Shire Council**

**Chairman Country Mayors Association of NSW**

T +61 2 67402115 M 0467 402412

E [jamiechaffey@infogunnedah.com.au](mailto:jamiechaffey@infogunnedah.com.au)

PO Box 63 (63 Elgin Street), GUNNEDAH NSW 2380, AUSTRALIA

[www.gunnedah.nsw.gov.au](http://www.gunnedah.nsw.gov.au) or [www.facebook.com/gunnedahshire](https://www.facebook.com/gunnedahshire)

I acknowledge the Kamilaroi Aboriginal Nation as the traditional custodians of the land on which I live, work and play. I pay my respect to Elders past and present.

Letter from CMA re RFS assets.msg

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## 12.7. INVESTMENT AND RESERVES REPORT - JUNE 2023

**Author: Financial Accountant**

**Authoriser: Acting Chief Financial Officer**

### RECOMMENDATION

That Council

1. Note and receive the June 2023 report on Investments totalling \$48,417,935 inclusive of cash at bank for day-to-day operations.
2. Note that actual interest earned in the month of June 2023 was \$92,647.
3. Note that total interest earned for the year to 30 June 2023 is \$865,785.
4. Note the Certificate of the Responsible Accounting Officer and adopt the Investment Report.

### BACKGROUND

The purpose of this report is to update Council on the investment of surplus funds and performance of Council's investment portfolio for the month to 30 June 2023 as required by Regulation No 264 (Part 19) of the Local Government Act 1993.

As at 30 June 2023, Council had a total of \$48,417,935 in invested funds, which is a significant increase from 31 May 2023. This is because on 28 June 2023, Council received \$6.9m being 100% of its 2023-24 FAG Grant in advance.

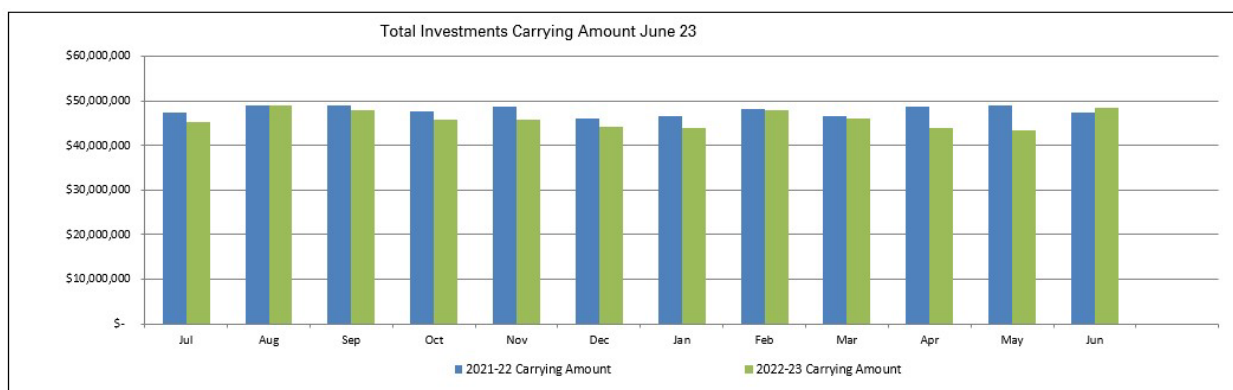
Interest earned from investments during the month of June 2023 was \$92,647. Included in this report are the following items:

- Council's Investments as at 30 June 2023
- Restrictions Applying to Investment Funds
- Investment Portfolio Performance
- Investment Commentary
- Monthly Report from Imperium Markets
- Certification by the Responsible Accounting Officer

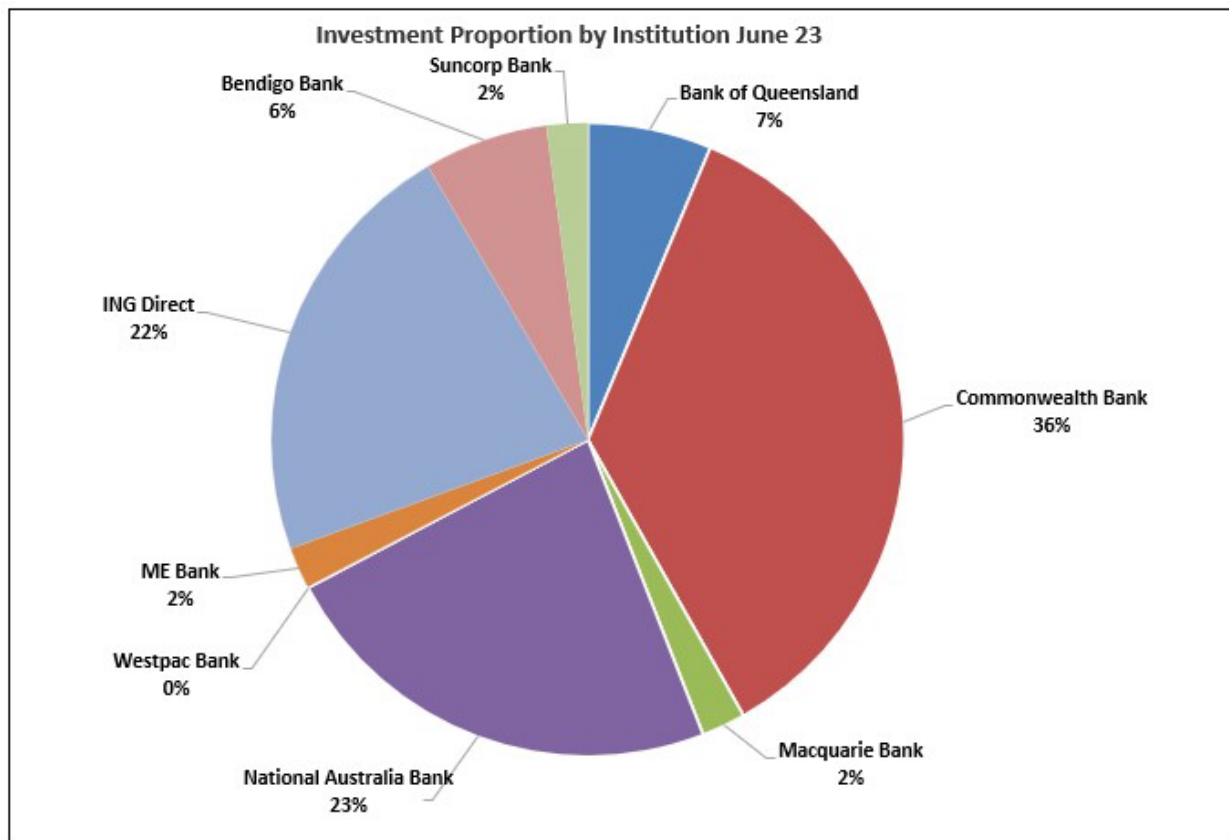
### ISSUE/DISCUSSION

As at 30 June 2023, Council had a total of \$48,417,935 in term deposits and cash at bank exclusive of unpresented receipts or cheques.

The total investments balance has remained within the \$43M - \$49M range for the past 12 months, with seasonal fluctuations from month to month in line with Council's cashflow requirements.



Council's funds were invested with A1+, A1 and A2 rated Authorised Deposit Institutions (ADI's).



### Summary of **cash at bank** from day-to-day operations

<b>Cash Summary</b>		<b>Comment</b>
Opening cash book balance	\$ 2,644,346	
Plus receipts	\$ 17,609,225	Grants, Investments, charges and rates debtors receipts
Less payments	\$ 15,356,356	Capex and Opex payments
<b>Cash book balance as at 30 June 2023</b>	<b>\$ 4,897,215</b>	
<b>Statement Summary</b>		
Opening statement balance	\$ 2,833,055	
Plus receipts	\$ 18,060,292	Grants, Investments, charges and rates debtors receipts
Less payments	\$ 15,999,182	Capex and Opex payments
<b>Bank statement balance as at 30 June 2023</b>	<b>\$ 4,894,165</b>	
plus Unpresented receipts	\$ 3,334	Receipts not yet presented at bank
less Unpresented payments	\$ 188	payments not yet presented at bank
less Unmatched receipts on the Bank Statement	\$ 111	
plus Unmatched payments on the Bank Statement	\$ -	
<b>Reconciliation balance as at 30 June 2023</b>	<b>\$ 4,897,201</b>	

The following restrictions applied to the cash and investments balance:

**Internal Restrictions**

Infrastructure replacement	\$ 1,779,826
Plant replacement reserve	\$ 1,798,670
Recreation reserves/villages	\$ 1,113,000
Other internal reserves	\$ 750,971
Employee entitlements	\$ 692,727
Land Development Fund	\$ 385,000
Airport Development	\$ 207,447
Deposits, retentions and bonds	\$ 295,003
Edward River Village	\$ 520,000

**Total Internal Restrictions** **\$ 7,542,645**

**External Restrictions**

Water supplies fund	\$ 7,142,761
Sewerage services fund	\$ 6,117,337
Tip remediation	\$ 1,300,000
Unexpended Merger funds	\$ 281,033
Other unexpended grant funds	\$ 4,572,722
Other external reserves	\$ 180,310

**Total External Restrictions** **\$ 19,594,163**

**Unrestricted Funds** **\$ 21,281,127**

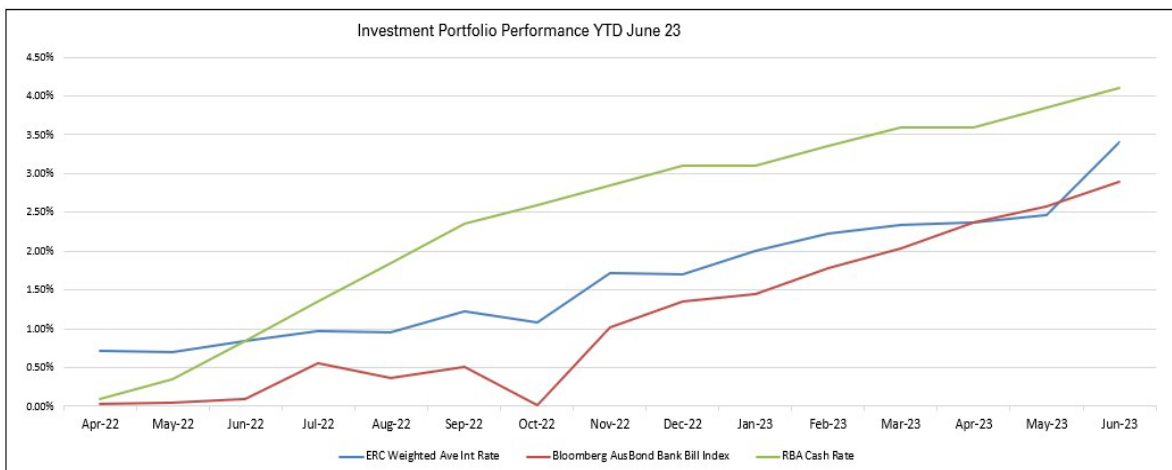
**Total Funds** **\$ 48,417,935**

**Fund Name****Bank and Investments Percentage**

General	\$ 36,212,247	74.79%
Water	\$ 6,620,713	13.67%
Sewer	\$ 5,584,975	11.53%
<b>Total Funds</b>	<b>\$ 48,417,935</b>	<b>100.00%</b>

**Investment Portfolio Performance**

Total interest earned from investments during the month of June 2023 was \$92,647, compared to the original monthly budget of \$22,436.



As at 30 June 2023, Council's weighted average interest rate was 3.40%, which was 0.51% above the Bloomberg AusBond Bank Bill Index implied one-year return of 2.89%. Total interest earned for the year to 30 June 2023 was \$865,785 compared to the budget of \$269,233 and previous year total of \$295,621.

### MONTHLY INVESTMENT REVIEW FROM IMPERIUM MARKETS

Council engaged Imperium Markets Pty Ltd to provide ongoing investment advisory services from May 2021 as per recommendation from Audit Risk and Improvement Committee (resolution ARIC/2021/7). As part of this service, Imperium provides, among other services, a monthly investment review report for Council which Council uses to inform investment decisions. A copy of the report is attached in this report as **Attachment 2 - Investment Review June 2023 - Imperium Markets**. Council continues to obtain financial benefits through accessing better rates through the Imperium Investment platform as well as efficiency savings in the investment process.

### INVESTMENT COMMENTARY

As at 30 June 2023, all investments were within the defined Investment Policy limits. Council's investment portfolio consisted of term deposits (87%) and cash at bank/ on call (13%).

The Reserve Bank of Australia (RBA) elected to raise the official cash rate in May with the cash rate now at 4.10%. The deposit market has factored in the rate movements in recent months. The higher rates provide opportunities for Council to obtain progressively higher rates on investments as the current ones mature. To mitigate the re-investment risk of current recession fears, Council is following on the advice from Imperium Markets, to invest in term deposits with maturities 1 year or longer, taking into consideration council's cashflow needs. This will allow council to take advantage of the relatively higher returns currently on the market for these investments as compared to short term ones

### STRATEGIC IMPLICATIONS

Investments have been made in accordance with Council's investment policy which was adopted on 19 April 2022.

### COMMUNITY STRATEGIC PLAN

5. Accountable leadership and responsive administration

5.2 Financially sustainable

### FINANCIAL IMPLICATIONS

Under Council's Investment policy, investments are made with a range of ADI's, with Council funds invested with a single institution not going above a percentage of the total portfolio as follows:

40%	A1+ rated institutions
25%	A1 rated institutions
40%	A1+ rated institutions
15%	A2 rated institutions
\$250,000	A3 and unrated authorized deposit taking institutions

The overall portfolio credit framework limits applicable to any credit rating category are as follows:

<b>100%</b>	<b>Commonwealth/State/Tcorp/M Funds</b>
100%	A1+ rated institutions
60%	A1 rated institutions
35%	A2 rated institutions
5%	A3 and Unrated authorized deposit taking institutions

## LEGISLATIVE IMPLICATIONS

Local Government Act 1993	<p><b>625 How may councils invest?</b></p> <p>(1) A council may invest money that is not, for the time being, required by the council for any other purpose.</p> <p>(2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.</p> <p>Editorial note- See Gazettes No 152 of 24.11.2000, p 12041; No 94 of 29.7.2005, p 3977; No 97 of 15.8.2008, p 7638 and No 160 of 24.12.2008 p 13140.</p> <p>(3) An order of the Minister notifying a form of investment for the purposes of the section must not be made without the approval of the Treasurer.</p> <p>(4) The acquisition, in accordance with section 358, of a controlling interest in a corporation or an entity within the meaning of that section is not an investment for the purposes of this section.</p>
Local Government Act 1993 Local Government (General) Regulation 2005	<p><b>212 Reports on council investments</b> The responsible accounting officer of a council –</p> <p>(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented-</p> <p>i) if only one ordinary meeting of the council is held in a month, at that meeting, or</p> <p>(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and</p> <p>(b) must include in the report a certificate as to whether or not the investment has been made in accordance with Act, the regulations and the council's investment</p>
	<p>2) The report must be made up to the last day of the month immediately preceding the meeting.</p> <p><b>Note-</b> Section 625 of the Act specifies the way in which a council may invest its surplus funds.</p>

### Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the Investment Report Attachment have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

Alistair Cochrane

**Responsible Accounting Officer**

ATTACHMENTS

**Attachment 1 - Schedule of Investments June 2023(1)**

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Schedule of Investments									
This Report is at date					30-June-2023				
Description	Account No.	Rating at EOM (S&P)	Date Invested	Maturity Date	Days	Rate	Face Value Amount	% of Portfolio	Estimated Interest
Westpac Business Cheque Plus Account	032-870 16-6545	A1+	N/a	N/a	365	0.00%	20,258	0.04%	Monthly
Westpac Business Cash Reserve	032-870 17-9231	A1+	N/a	N/a	365	0.05%	0	0.00%	Monthly
Westpac 31 Day Notice Account	032-870 23-2696	A1+	N/a	N/a	365	3.95%	1,666	0.00%	Monthly
Commonwealth Bank General Fund	062-533 00000010	A1+	N/a	N/a	365	3.40%	4,807,273	9.93%	Monthly
Commonwealth Bank Business On Line Saver	062-533 10151117	A1+	N/a	N/a	365	3.65%	1,522,103	3.14%	Monthly
Macquarie Bank - Rates	3005-79778	A1	N/a	N/a	365	0.00%	61,827	0.13%	Monthly
Macquarie Bank - Water	2643-18940	A1	N/a	N/a	365	0.00%	4807	0.01%	Monthly
<b>Total Oncall/ CMT Accounts</b>							<b>6,417,935</b>	<b>13.26%</b>	
<b>Term Deposits</b>									
National Australia Bank	0	0	00-Jan-00	00-Jan-00	0	0.00%	0	0.00%	-
National Australia Bank	20-049-8755	A1+	10-Jun-21	11-Jun-24	1097	0.75%	3,000,000	6.20%	67,623.29
National Australia Bank	50-665-2647	A1+	24-May-21	24-May-24	1096	0.75%	2,500,000	5.16%	56,301.37
ING Direct	35-071-3705	A1+	29-Jun-23	30-Jun-25	732	5.55%	2,000,000	4.13%	222,608.22
Bank of Queensland	75-932-6942	A1+	29-Jun-23	16-Jul-24	383	5.56%	2,000,000	4.13%	116,683.84
National Australia Bank	81-520-8937	A1+	06-Sep-21	06-Sep-23	730	0.65%	3,000,000	6.20%	39,000.00
National Australia Bank	75-932-6944	A1+	08-Dec-22	08-Dec-23	365	4.32%	1,500,000	3.10%	64,800.00
National Australia Bank	0	A1+	10-Nov-22	10-Nov-23	365	4.55%	1,000,000	2.07%	45,500.00
Commonwealth Bank	CDA 37543602	A1+	18-Feb-22	18-Feb-24	730	1.65%	1,500,000	3.10%	49,500.00
Commonwealth Bank	CDA 37543602	A1+	09-Sep-21	08-Sep-23	729	0.57%	3,000,000	6.20%	34,153.15
Commonwealth Bank	CDA 37543602	A1+	26-Jul-22	25-Jul-23	364	4.16%	1,500,000	3.10%	62,229.04
Commonwealth Bank	CDA 37543602	A1+	05-Sep-22	05-Sep-23	365	4.16%	1,500,000	3.10%	62,400.00
Commonwealth Bank	CDA 37543602	A1+	28-Nov-22	28-Nov-23	365	4.40%	1,000,000	2.07%	44,000.00
Commonwealth Bank	83-703-9114	A1+	04-Oct-22	04-Oct-23	365	4.45%	2,000,000	4.13%	89,000.00
Suncorp Bank	0	A1+	28-Nov-22	28-Nov-23	365	4.48%	1,000,000	2.07%	44,800.00
Macquarie Bank	CN055243	A1	14-Nov-22	14-Nov-23	365	4.36%	1,000,000	2.07%	43,600.00
<b>Total A1+ Deposits</b>							<b>27,500,000</b>	<b>56.80%</b>	
Bendigo Bank	105-306-781	A2	14-Sep-21	14-Sep-23	730	0.55%	2,000,000	4.13%	22,000.00
Bendigo Bank	0	A2	22-Mar-23	26-Mar-24	370	4.65%	1,000,000	2.07%	47,136.99
ING Direct	0	A2	22-Feb-23	22-Feb-24	365	4.95%	1,500,000	3.10%	74,250.00
ING Direct	0	A2	22-Mar-23	25-Mar-25	734	4.50%	1,000,000	2.07%	90,493.15
ING Direct	1100308	A2	13-Jun-23	18-Jun-24	371	5.41%	2,000,000	4.13%	109,978.63
ING Direct	0	A2	28-Jun-23	19-Dec-23	174	5.52%	2,000,000	4.13%	52,629.04
ING Direct	0	A2	28-Jun-23	09-Apr-24	286	5.55%	2,000,000	4.13%	86,975.34
Bank of Queensland	623109	A2	10-Nov-22	11-Nov-24	732	4.70%	1,000,000	2.07%	94,257.53
ME Bank	342679	A2	04-Aug-22	08-Aug-23	369	3.81%	1,000,000	2.07%	38,517.53
MyState Bank	0	A2	28-Jun-23	28-Jun-24	366	5.65%	1,000,000	2.07%	56,654.79
<b>Total A2 Deposits</b>							<b>14,500,000</b>	<b>29.95%</b>	
<b>Weighted Average Interest Rate</b>						<b>3.11%</b>	<b>48,417,935</b>	<b>100.00%</b>	

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## **Investment Review**

### **June 2023**



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Authorised Representative of InterPrac Financial Planning Pty Ltd AFSL 246 638  
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Level 9 Suite 06, 70 Phillip Street, Sydney NSW 2000

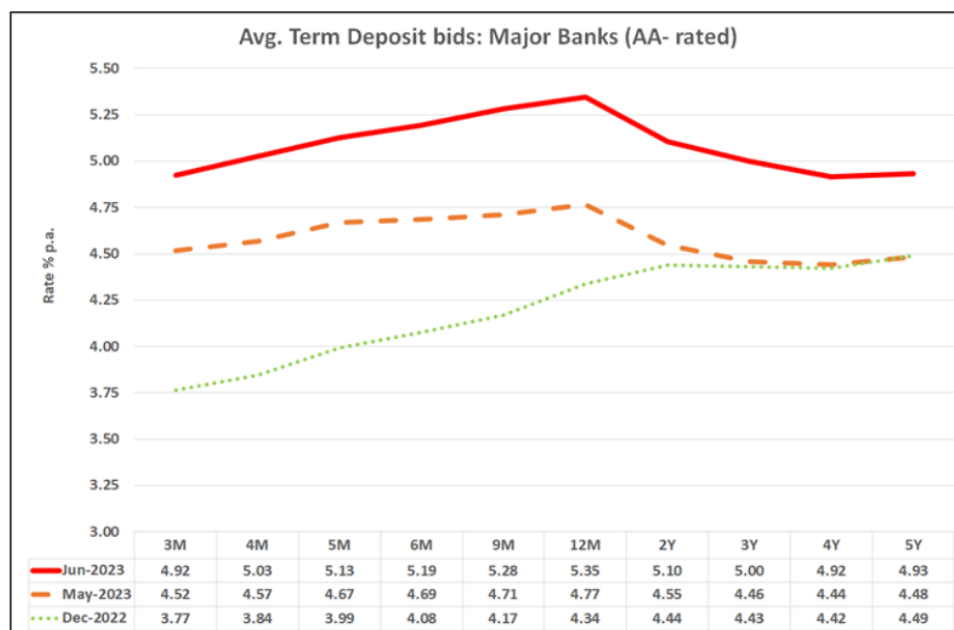


### Market Update Summary

Financial markets were aided in June on hopes that global central banks may be approaching the peak of their interest rate hike cycle, with several signalling a pause may be appropriate for the foreseeable future. Globally amongst central banks, there has been a focus on services inflation, and on a forward looking basis, a need for firms to shift to absorbing rising labour costs in margins as demand slows.

Domestically, the RBA's recent decisions to increase interest rates after the pause in April have been centred around an assessment of upside risks to inflation from sticky services inflation and shifts in wage and price setting behaviour. The RBA's bias argues towards a hike in July, though their April instinct to pause in anticipation of a full forecast update makes July's meeting less certain.

Deposit rates rose around ~50bp across the short-end of the curve (3-12 months) over June, following the RBA's decision to hike earlier in the month, whilst flagging further rate hikes may be required. In absolute headline terms, deposits offered by the major banks continue to be lower in the long-end (2-5 year rates) compared to the shorter-end (6-12 month rates), reflective of the major banks belief that interest rate cuts may be delivered in future years once inflation has peaked and is under control:



Source: Imperium Markets

**'New' investments close to or above 5¼-5½% p.a. is currently available if Council can place a proportion of funds between 12 months to 3 years. With recessionary fears being priced in coming years, investors may take an 'insurance policy' against future rate cuts by investing across 3-5 year fixed deposits and locking in rates above or close to 5½% p.a. (small allocation only), although this is primarily being offered by the lower rated ("BBB") ADIs.**



## Council's Portfolio & Compliance

### Asset Allocation

The portfolio is mainly directed to fixed term deposits (~87%), with the remainder of the portfolio (~13%) being held in various overnight cash accounts.

Senior FRNs remain relatively attractive as spreads have generally widened over the past 12-18 months – new issuances should now be considered again on a case by case scenario. In the interim, staggering a mix of fixed deposits between 9-12 months to 2 years remains a more optimal strategy to maximise returns over a longer-term cycle.

With recessionary fears being priced in coming years, investors can choose to allocate a small proportion of longer-term funds and undertake an insurance policy against any potential future rate cuts by investing across 3-5 year fixed deposits, locking in and targeting yields close to or above 5½% p.a. (mainly available from the regional banks).



### Term to Maturity

**The portfolio remains highly liquid with around 88% maturing within 12 months.** The weighted average duration of the deposit portfolio is around 8 months and so the majority of the portfolio will turnover and be reinvested at higher prevailing rates over the next two quarters.

Where liquidity permits, we recommend investing surplus funds in the 1-2 year horizons to optimise the portfolio's returns in the long-run. Where there is (counterparty) capacity to invest in attractive medium-longer term investments, we recommend this be allocated to medium-term fixed deposits (refer to respective sections below).

Compliant	Horizon	Invested (\$)	Invested (%)	Min. Limit (%)	Max. Limit (%)	Available (\$)
✓	0 – 90 days	\$18,417,935	38.04%	15%	100%	\$30,000,000
✓	91 – 365 days	\$24,000,000	49.57%	0%	100%	\$24,417,935
✓	1 – 2 years	\$4,000,000	8.26%	0%	70%	\$29,892,555
✓	2 – 5 years	\$2,000,000	4.13%	0%	50%	\$22,208,968
		<b>\$48,417,935</b>	<b>100.00%</b>			



### Counterparty

As at the end of the June, Council did not have an overweight position to any single ADI – all are within compliance of the Policy limits. Overall, the portfolio is lightly diversified across the investment grade credit spectrum, with no exposure to the unrated ADIs.

We welcomed Council's decision to diversify and place a new deposit investment with MyState Bank (BBB) during the month – we encourage further diversification in future – not only to reduce concentration risk, but in all likelihood, this will increase the overall returns of the portfolio.

Compliant	Issuer	Rating <sup>^</sup>	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	CBA	AA-	\$16,829,377	34.76%	40.00%	\$2,537,797
✓	NAB	AA-	\$11,000,000	22.72%	40.00%	\$8,367,174
✓	Westpac	AA-	\$21,924	0.05%	40.00%	\$19,345,250
✓	Macquarie Bank	A+	\$1,066,634	2.20%	25.00%	\$11,037,850
✓	Suncorp	A+	\$1,000,000	2.07%	25.00%	\$11,104,484
✓	ING	A	\$10,500,000	21.69%	25.00%	\$1,604,484
✓	BOQ	BBB+	\$4,000,000	8.26%	15.00%	\$3,262,690
✓	Bendigo-Adelaide	BBB+	\$3,000,000	6.20%	15.00%	\$4,262,690
✓	MyState Bank	BBB	\$1,000,000	2.07%	15.00%	\$6,262,690
			<b>\$48,417,935</b>	<b>100.00%</b>		

<sup>^</sup>Applying long-term ratings only.

In July 2022, ANZ (AA-) announced it was putting a bid to buy Suncorp's banking division for ~\$3.9bn. Should that takeover be formalised, Suncorp-Metway's (A+) current credit rating is likely to be upgraded to ANZ's (AA-), although this still requires approval from the Australian Competition and Consumer Commission (ACCC), with the outcome flagged for ruling in July 2023.

We remain supportive of the regional and unrated ADI sector (and have been even throughout the post-GFC period). They continue to remain solid, incorporate strong balance sheets, while exhibiting high levels of capital – typically, much higher compared to the higher rated ADIs. Some unrated ADIs have up to 25-40% more capital than the domestic major banks, and well above the Basel III requirements.

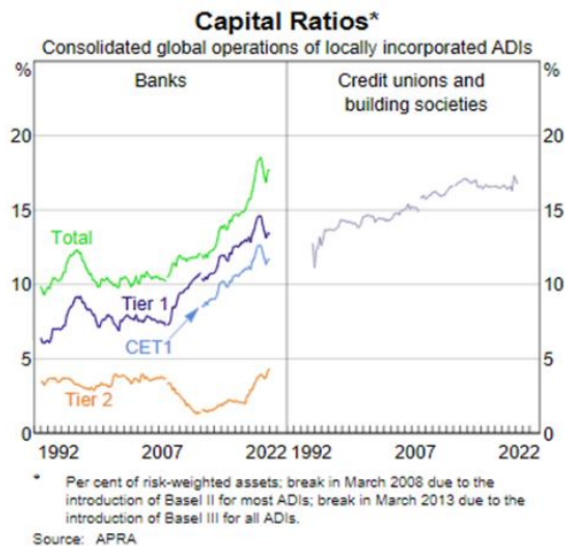
Overall, the lower rated ADIs (BBB and unrated) are generally now in a better financial position than they have been historically (see the Capital Ratio figure below). The financial regulator, APRA has noted that the Common Equity Tier 1 capital of Australian banks now exceeds a quarter of a trillion dollars. It has increased by \$110 billion, or more than 70%, over the past eight years. Over the same time, banks' assets have grown by 44%. Some of the extra capital is supporting growth in the banking system itself but clearly, there has been a strengthening in overall resilience and leverage in the system is lower.

We believe that deposit investments with the lower rated ADIs should be considered going forward, particularly when they offer 'above market' specials. Not only would it diversify the investment portfolio and reduce credit risk, it would also improve the portfolio's overall returns. The lower rated entities are generally deemed to be the more 'ethical' ADIs compared to the higher rated ADIs.

In the current environment of high regulation and scrutiny, all domestic (and international) ADIs continue to carry high levels of capital. There is minimal (if any) probability of any ADI defaulting on their



deposits going forward – this was stress tested during the GFC and the pandemic period. APRA's mandate is to *“protect depositors”* and provide *“financial stability”*.



### Credit Quality

The portfolio remains diversified from a credit ratings perspective. The entire long term portfolio is spread amongst the investment grade spectrum. All aggregate ratings categories were within the Policy limits at month-end:

Compliant	Credit Rating <sup>^</sup>	Invested (\$)	Invested (%)	Max. Limit (%)	Available (\$)
✓	AA Category	\$27,851,301	58%	100%	\$20,566,634
✓	A Category	\$12,566,634	26%	60%	\$16,484,127
✓	BBB Category	\$8,000,000	17%	35%	\$8,946,277
✓	Unrated Category	\$0	0%	5%	\$2,420,897
		<b>\$48,417,935</b>	<b>100.00%</b>		

<sup>^</sup> Applying long-term ratings only.

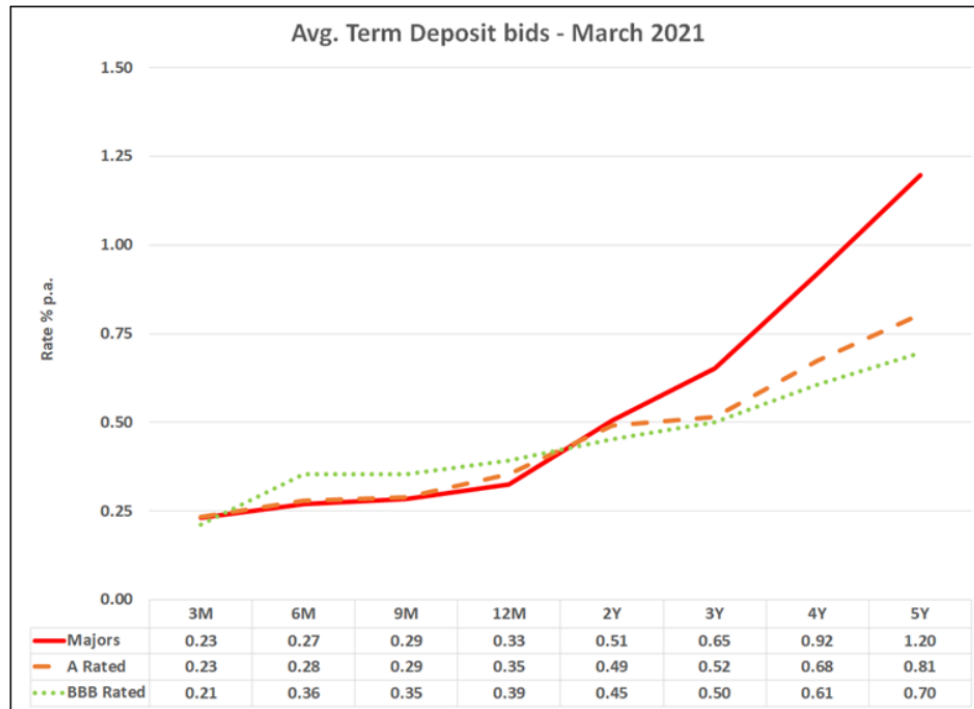
Pre-pandemic (March 2020), a 'normal' marketplace meant the lower rated ADIs (i.e. BBB category) were offering higher rates on term deposits compared to the higher rated ADIs (i.e. A or AA rated). But due to the cheap funding available provided by the RBA via their Term Funding Facility (TFF) since mid-2020<sup>1</sup>, allowing the ADIs to borrow as low as 0.10% p.a. fixed for 3 years, those lower rated ADIs (BBB rated) did not require deposit funding from the wholesale deposit from the likes of Council. Given the higher rated banks had more capacity to lend (as they have a greater pool of mortgage borrowers), they subsequently were offering higher deposit rates. In fact, some of the lower rated banks

<sup>1</sup> The RBA's Term Funding Facility (TFF) allowed the ADI to borrow as low as 0.10% fixed for 3 years: <https://www.rba.gov.au/mkt-operations/term-funding-facility/overview.html>



were not even offering deposit rates at all. As a result, most investors placed a higher proportion of their deposit investments with the higher rated (A or AA) ADIs over the past three years.

**Term Deposit Rates – 12 months after pandemic (March 2021)**



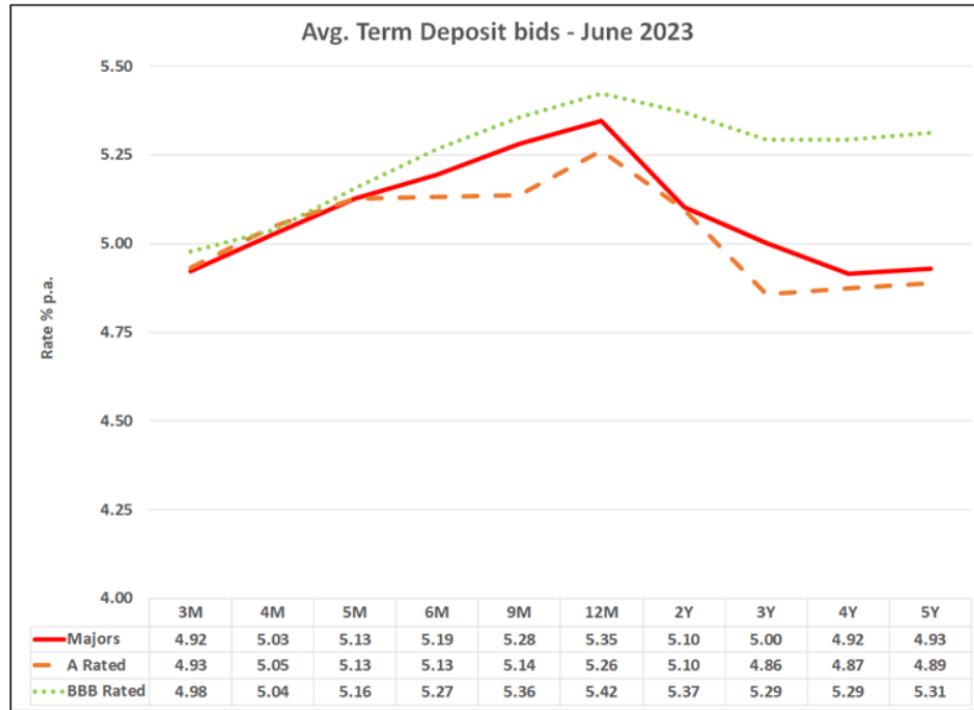
Source: Imperium Markets

The abnormal marketplace experienced during the pandemic is starting to reverse as the competition for deposits increases. We are now starting to see some of the lower rated ADIs ("BBB" rated) offering slightly higher rates compared to the higher rated banks ("A" or "AA" rated) on different parts of the curve (i.e. pre-pandemic environment). Some of this has been attributed to lags in adjusting their deposit rates as some banks (mainly the lower rated ADIs) simply set their rates for the week.

Going forward, Council should have a larger opportunity to invest a higher proportion of its funds with the lower rated institutions (up to Policy limits), from which the majority are not lending to the Fossil Fuel industry. We are slowly seeing this trend emerge, as has been the case over the past month again:



**Term Deposit Rates – Currently (June 2023)**



Source: Imperium Markets



### Performance

Council's performance (excluding cash holdings) for the month ending June 2023 is summarised as follows:

Performance (Actual)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	0.33%	0.95%	1.77%	2.97%	2.97%
AusBond Bank Bill Index	0.30%	0.90%	1.70%	2.89%	2.89%
Council's T/D Portfolio <sup>^</sup>	0.21%	0.60%	1.12%	1.81%	1.81%
Outperformance	-0.09%	-0.30%	-0.59%	-1.08%	-1.08%

<sup>^</sup>Total portfolio performance excludes Council's cash account holdings. Overall returns would be lower if cash was included.

Performance (Annualised)	1 month	3 months	6 months	FYTD	1 year
Official Cash Rate	4.10%	3.85%	3.60%	2.97%	2.97%
AusBond Bank Bill Index	3.72%	3.67%	3.46%	2.89%	2.89%
Council's T/D Portfolio <sup>^</sup>	2.61%	2.42%	2.26%	1.81%	1.81%
Outperformance	-1.12%	-1.25%	-1.20%	-1.08%	-1.08%

<sup>^</sup>Total portfolio performance excludes Council's cash account holdings. Overall returns would be lower if cash was included.

For the month of June, the portfolio (excluding cash) provided a return of +0.21% (actual) or +2.61% p.a. (annualised), underperforming the benchmark AusBond Bank Bill Index return of +0.30% (actual) or +3.72% p.a. (annualised). This relative 'underperformance' has been due to the unexpected aggressive rate hikes undertaken by the RBA. Whilst this 'underperformance' may continue in the short-term, we do anticipate this to be temporary given the high level of turnover.

Over the next financial year, Council may consider altering its longer-term strategy by placing a slightly larger proportion of deposits and stagger investments across 12-24 months terms. Over a cycle and in a normal market environment, this may earn up to ¼-½% p.a. higher compared to purely investing in shorter tenors (predominately under 6-12 months). There is a growing belief that a recession is not too far away and so locking in rates above or close to 5% p.a. across 2-3 year tenors may provide some income protection against a lower rate environment.



### Council's Term Deposit Portfolio & Recommendation

As at the end of June 2023, Council's deposit portfolio was yielding 3.40% p.a. (up 1.06% p.a. from the previous month), with a weighted average duration of around 237 days (~8 months).

Over a longer-term cycle, investors are rewarded if they can continue to maintain a slightly longer average duration. In a 'normal' marketplace, yields at the long-end are generally offered at a slight premium over shorter tenors.

At the time of writing, we see value in:

ADI	LT Credit Rating	Term	T/D Rate
P&N Bank	BBB	5 years	5.75% p.a.
P&N Bank	BBB	4 years	5.75% p.a.
P&N Bank	BBB	3 years	5.75% p.a.
P&N Bank	BBB	2 years	5.70% p.a.
AMP Bank	BBB	2-3 years	5.55% p.a.^
ING	A	2 years	5.55% p.a.
BoQ	BBB+	2 years	5.50% p.a.
Suncorp	A+	2 years	5.40% p.a.
Australian Unity	BBB+	2 years	5.40% p.a.
Bendigo-Adelaide	BBB+	2 years	5.30% p.a.
Westpac	AA-	2 years	5.28% p.a.
NAB	AA-	2 years	5.25% p.a.

<sup>^</sup>Contact us to get an additional 20bp rebated commission. Aggregate limits temporarily lifted to \$10m (from \$5m).

The above deposits are suitable for investors looking to maintain diversification and lock-in a slight premium compared to purely investing short-term. For terms under 12 months, we believe the strongest value is currently being offered by the following ADIs (dependent on daily funding requirements):



ADI	LT Credit Rating	Term	T/D Rate
P&N Bank	BBB	12 months	5.70% p.a.
AMP Bank	BBB	11-12 months	5.70% p.a.^
Hume Bank	BBB+	6 & 12 months	5.65% p.a.
ING	A	12 months	5.62% p.a.
AMP Bank	BBB	6-7 months	5.60% p.a.^
BoQ	BBB+	12 months	5.60% p.a.
MyState	BBB	12 months	5.60% p.a.
NAB	AA-	12 months	5.55% p.a.
CBA	AA-	12 months	5.55% p.a.
Suncorp	A+	6 months	5.50% p.a.
BoQ	BBB+	7 months	5.50% p.a.
NAB	AA-	6-9 months	5.45% p.a.
Westpac	AA-	12 months	5.43% p.a.
Bendigo-Adelaide	BBB+	12 months	5.40% p.a.
NAB	AA-	3 months	5.10% p.a.

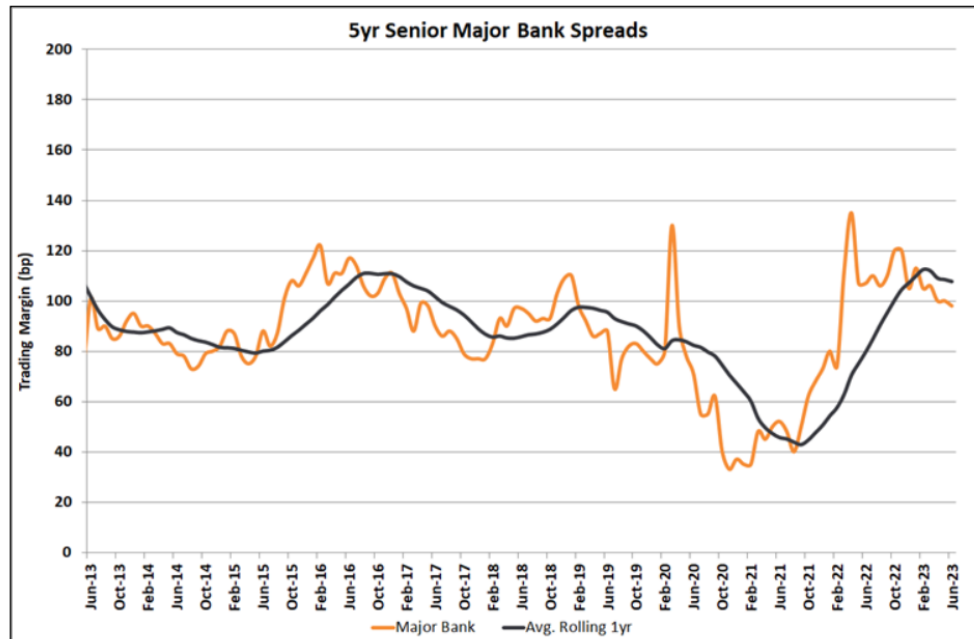
^Contact us to get an additional 20bp rebated commission. Aggregate limits temporarily lifted to \$10m (from \$5m).

*If Council does not require high levels of liquidity and can stagger a proportion of its investments across the longer term horizons (1-5 years), it will be rewarded over a longer-term cycle. Investing a spread of 12 months to 3 year horizons is likely to yield, on average, up to ¼-½% p.a. higher compared to those investors that entirely invest in short-dated deposits (under 6-9 months).*



### Senior FRNs Review

Over June, amongst the senior major bank FRNs, physical credit securities tightened by around 1-2bp at the long-end of the curve. Major bank senior securities remain fairly attractive again in the rising rate environment (5 year margins around the +95-100bp level):



Source: IBS Capital

During the month, there were primary (new) issuance from:

- 5yr Bendigo (AAA) covered FRN at +115bp
- 1yr IMB (BBB) senior FRN at +95bp
- 3yr AMP (BBB) senior FRN at +165bp
- 3yr RBC (AAA) covered FRN at +73bp

Amongst the “A” and “BBB” rated sector, the securities were marked around 5bp tighter at the long-end of the curve.

Credit securities are looking much more attractive given the widening of spreads over the past 12-18 months. FRNs will continue to play a role in investor’s portfolios mainly on the basis of their liquidity and the ability to roll down the curve and gross up returns over future years (in a relatively stable credit environment).



Senior FRNs (ADIs)	30/06/2023	31/05/2023
"AA" rated – 5yrs	+98bp	+100bp
"AA" rated – 3yrs	+75bp	+76bp
"A" rated – 5yrs	+120bp	+125bp
"A" rated – 3yrs	+100bp	+100bp
"BBB" rated – 3yrs	+130bp	+135bp

Source: IBS Capital

We now generally recommend switches ('benchmark' issues only) into new primary issues, out of the following senior FRNs that are maturing:

- **On or before mid-2025 for the "AA" rated ADIs (domestic major banks);**
- On or before mid-2024 for the "A" rated ADIs; and
- Within 6-9 months for the "BBB" rated ADIs (consider case by case).

Investors holding onto the above senior FRNs ('benchmark' issues only) are now generally holding sub-optimal investments and are not maximising returns by foregoing, potentially significant capital gains. In the current challenging economic environment, any boost in overall returns should be locked in when it is advantageous to do so, particularly as switch opportunities become available.

*Primary (new) FRNs are now looking more appealing and should be considered on a case by case scenario.*



**Senior Fixed Bonds – ADIs (Secondary Market)**

As global inflationary pressures remain, this has seen a significant lift in longer-term bond yields over the past 12-18 months (valuations fallen) as markets have reacted sharply.

This has resulted in some opportunities in the secondary market. We currently see value in the following fixed bond lines, with the majority now being marked at a significant discount to par (please note supply in the secondary market may be limited on any day):

ISIN	Issuer	Rating	Capital Structure	Maturity Date	~Remain. Term (yrs)	Fixed Coupon	Indicative Yield
AU3CB0265403	Suncorp	A+	Senior	30/07/2024	1.09	1.85%	5.24%
AU3CB0266377	Bendigo	BBB+	Senior	06/09/2024	1.19	1.70%	5.42%
AU3CB0268027	BoQ	BBB+	Senior	30/10/2024	1.34	2.00%	5.53%
AU3CB0287498	Bendigo	BBB+	Senior	17/03/2025	1.72	3.00%	5.44%
AU3CB0293967	Bendigo	AAA	Covered	11/11/2025	2.37	5.10%	5.34%
AU3CB0280030	BoQ	BBB+	Senior	06/05/2026	2.85	1.40%	5.58%
AU3CB0282358	ING	AAA	Covered	19/08/2026	3.14	1.10%	5.09%
AU3CB0284149	BoQ	BBB+	Senior	27/10/2026	3.33	2.10%	5.62%



## Economic Commentary

### International Market

Financial markets were aided in June on hopes that global central banks may be approaching the peak of their interest rate hike cycle, with several signalling a pause may be appropriate for the foreseeable future.

Across equity markets, the S&P 500 Index gained +6.47%, whilst the NASDAQ added +6.59%. Europe's main indices also rebounded strongly, led by France's CAC (+4.25%), Germany's DAX (+3.09%) and UK's FTSE (+1.15%).

As widely expected, the US Fed delivered a hawkish pause. The funds rate was left unchanged at 5.00%-5.25% but economic forecasts were revised - GDP for 2023 was moved up to +1.0% from prior of +0.4%, with little change in 2024 (+1.1% from +1.2%) and 2025 (+1.8% from +1.9%); unemployment rate was lower at 4.1% for 2023 (prior 4.5%), with limited changes for 2024 (4.5% from 4.6%); core PCE at +3.9% for 2023 (prior +3.6%) and at +2.6% for 2024 and +2.2% for 2025.

US CPI, which was in line with expectations rising +0.1% m/m and +4.1%y/y from +4.9% (+0.1%/+4.1% expected). The headline easing was helped by a -5.6% drop in gasoline prices, declines in electricity and natural gas prices. Core inflation was also in line with expectations at +0.4% m/m and +5.3% y/y.

The ECB lifted its deposit rate by 25bp to 3.50% and the Refinance rate to 4.0%, as expected, taking the cumulative tightening this cycle to 400bp. Euro area CPI inflation came in lower than expected. Headline was +6.1% y/y vs. +6.3% expected, and core was +5.3% y/y vs. +5.5% expected.

The UK unemployment rate dropped to 3.8% in the three months through April, below forecasts for an increase to 4%. UK inflation disappointed, again. Headline remained at +8.7% against expectations for a fall to +8.4%, while core rose to +7.1% from +6.8% (+6.8% expected).

The Bank of England (BoE) opted for shock 50bp rate hike, taking the Bank Rate to 5.00%. Rates were last seen at these levels back in 2008 before the GFC crash and a level that was typical right back to the early 1990s.

Canada reported Q1 GDP at 3.1% at a quarterly annualised rate, above the 2.5% consensus. The BoC shocked markets, hiking by 25bp to 4.75%. Further, the BoC assessed "*monetary policy was not sufficiently restrictive*", a hint of a follow up move in July with markets now 70% priced.

The MSCI World ex-Aus Index rose +5.95% for the month of June:

Index	1m	3m	1yr	3yr	5yr	10yr
S&P 500 Index	+6.47%	+8.30%	+17.57%	+12.81%	+10.36%	+10.73%
MSCI World ex-AUS	+5.95%	+6.43%	+16.75%	+10.54%	+7.42%	+7.73%
S&P ASX 200 Accum. Index	+1.76%	+1.01%	+14.78%	+11.12%	+7.16%	+8.56%

Source: S&P, MSCI



### Domestic Market

The RBA raised rates by 25bp to 4.10%, surprising markets which were only pricing around a 35% chance of a move. The post-Meeting Statement said *“recent data indicate that the upside risks to the inflation outlook have increased and the Board has responded to this”*.

The RBA Minutes revealed the Board again discussed the merits of hiking by 25bp or pausing in June, with arguments again *“finely balanced”*. The RBA was also considering whether to sell its QE holdings. Any move to sell the bonds would be aimed at reducing interest-rate risk and stemming potential further losses.

Employment growth sharply exceeded expectations in May, up some +76k in the month (consensus +17.5k). The unemployment rate fell 0.1% to 3.6% (3.55 unrounded) and has remained around its current historically low level for the past year.

The Monthly CPI Indicator for May showed headline inflation of +5.6% y/y, a sharp fall from +6.8%.

Retail sales rose +0.7% m/m in May, much stronger than the +0.1% consensus.

Australian dwelling prices rose +1.2% m/m in May. That follows the +0.6% rise in March and a +0.5% rise in April, which broke a streak of 10 consecutive monthly declines.

The trade surplus for April eased back to \$11.158bn, a little lower than the consensus for \$13.650bn and down from \$14.822bn in March.

The Council of Financial Regulators has backed APRA’s enforcement of a 3% mortgage serviceability buffer when assessing home loan applicants, despite borrowers finding it increasingly difficult to refinance their mortgages with different lenders at higher interest rates.

The Australian dollar gained +2.08%, finishing the month at US66.30 cents (from US64.95 cents the previous month).

### Credit Market

The global credit indices marginally tightened over June. They are now back to their levels in early 2022 (prior to the rate hike cycle from most central banks):

Index	June 2023	May 2023
CDX North American 5yr CDS	69bp	76bp
iTraxx Europe 5yr CDS	82bp	82bp
iTraxx Australia 5yr CDS	76bp	83bp

Source: Markit



## Fixed Interest Review

### Benchmark Index Returns

Index	June 2023	May 2023
Bloomberg AusBond Bank Bill Index (0+YR)	+0.30%	+0.29%
Bloomberg AusBond Composite Bond Index (0+YR)	-1.95%	-1.21%
Bloomberg AusBond Credit FRN Index (0+YR)	+0.41%	+0.34%
Bloomberg AusBond Credit Index (0+YR)	-1.08%	-0.51%
Bloomberg AusBond Treasury Index (0+YR)	-2.28%	-1.39%
Bloomberg AusBond Inflation Gov't Index (0+YR)	-2.38%	-0.65%

Source: Bloomberg

### Other Key Rates

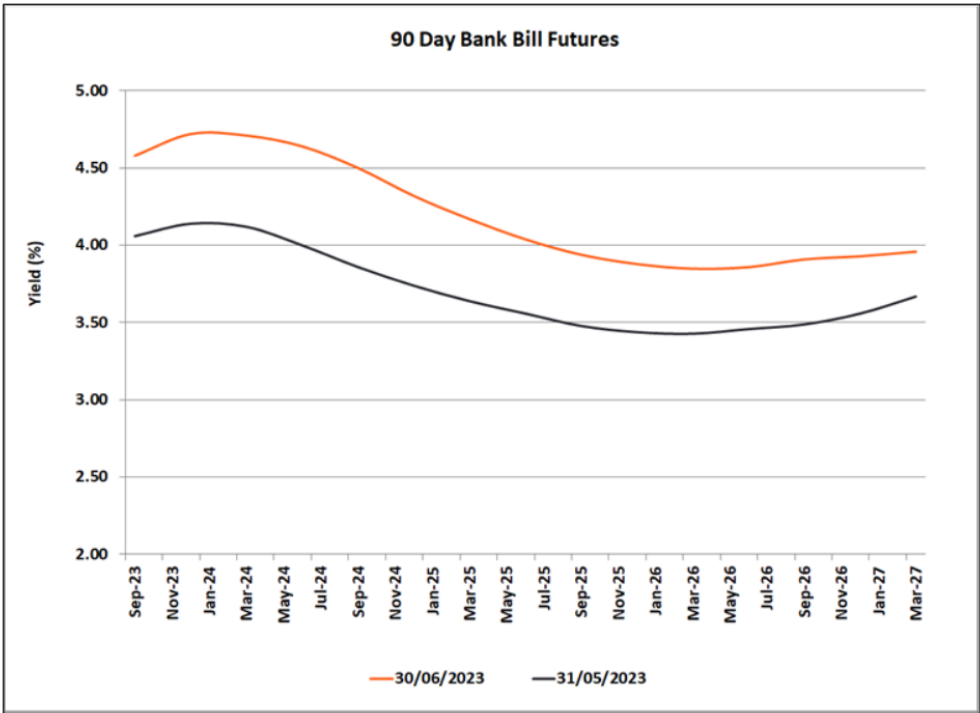
Index	June 2023	May 2023
RBA Official Cash Rate	4.10%	3.85%
90 Day (3 month) BBSW Rate	4.35%	3.98%
3yr Australian Government Bonds	4.03%	3.37%
10yr Australian Government Bonds	4.03%	3.61%
US Fed Funds Rate	5.00%-5.25%	5.00%-5.25%
2yr US Treasury Bonds	4.87%	4.40%
10yr US Treasury Bonds	3.81%	3.64%

Source: RBA, AFMA, US Department of Treasury



90 Day Bill Futures

Bill futures rose across the board in June with the RBA remaining on a slight tightening bias, signalling further rate hikes may be required to bring inflation towards their target band over coming years. The markets continue to factor in the possibility of a global recession over the next few years, highlighted by the drop in the futures pricing in early 2024:



Source: ASX



## Fixed Interest Outlook

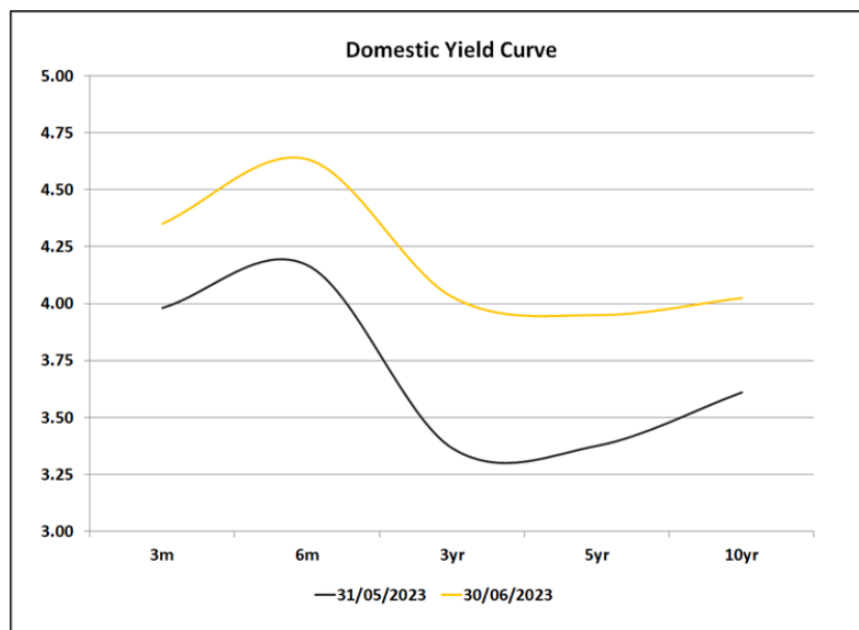
The median dot plot from the US Fed was revised higher in 2023 – while this was expected the surprise was that it was revised from 5.10% to 5.625% (economists had centred on it being revised to 5.375%). The 2024 median dot was revised to 4.675% from 4.375% and the 2025 to 3.375% from 3.125%.

Domestically, after delivering another 25bp hike in June, the RBA justified its decision commenting that *“recent data indicate that the upside risks to the inflation outlook have increased and the Board has responded to this”*. The language in the post-Meeting Statement was hawkish with the key concluding paragraph unchanged, noting that *“some further tightening of monetary policy may be required”*.

Going forward, the question is about what level of interest rates will be sufficient to return inflation to the nominated 3% level by mid-2025. The RBA remains absolutely committed to return inflation to target, rather than suffer the much larger costs of more persistent high inflation. The consequence of this will be even slower near-term growth and the risk of a bumpier landing for the economy.

Whilst inflation has shown evidence of peaking, and although (as per the RBA’s forecast) inflation may return to the band by 2025, the extended period of inflation above target amidst a tight labour market poses the risk of stronger wage and price expectations becoming imbedded.

Over the month, yields rose up to 67bp at the long-end of the curve:

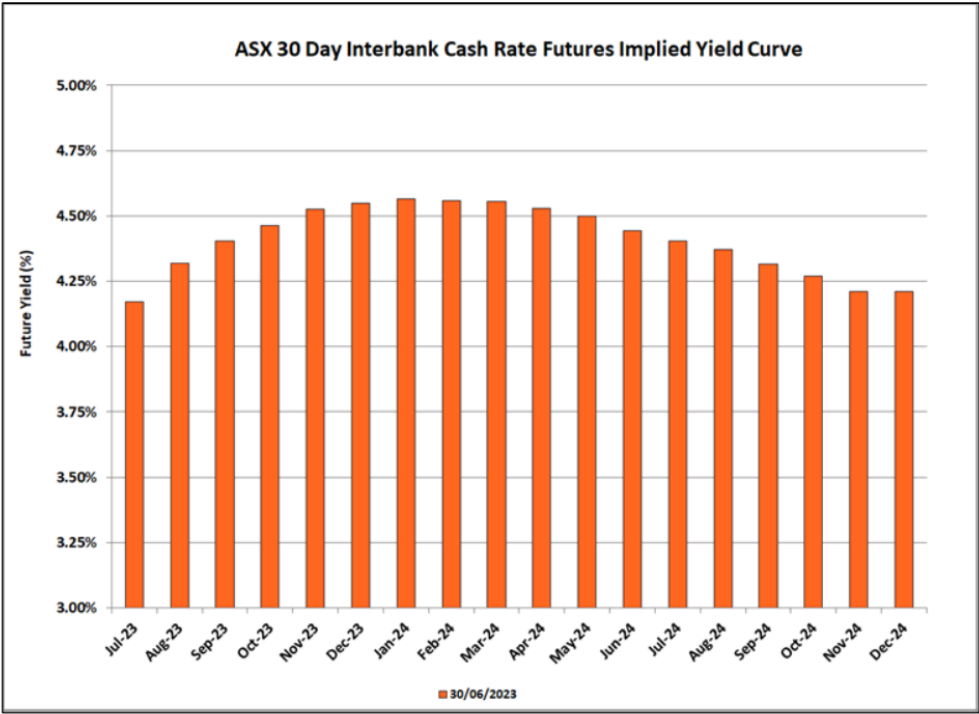


Source: AFMA, ASX, RBA

Markets have been quick to revise their interest rate forecasts with additional rate hikes priced over the next two quarters. The RBA’s bias argues towards a hike in July, though their April instinct to pause in



anticipation of a full forecast update makes July’s meeting less certain. Rate cuts have also now been pushed back to mid-late 2024.



Source: ASX

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## 12.8. MAJOR PROJECTS UPDATE

### Project Update - May 2023

Author: Projects Coordinator

Authoriser: Chief Executive Officer

### RECOMMENDATION

That Council receive and note the Major Projects Program – Progress Report for June 2023

### BACKGROUND

A breakdown of current funding and active projects is as follows:

Government Funding Body	Project	Total Funding	Funding Remaining
NSW Showground Stimulus Funding	Demolition & Construction of amenities Extension of Clubrooms - DNA Roadway & Carparking Eastern Side Sealed Access Roads, Carpark and Kerb and Gutter	\$1,500,703	\$1,278,672
Stronger Country Communities Fund - R4	Lighting Deniliquin and Blighty Rec Reserves	\$1,113,338	\$1,053,952
Stronger Country Communities Fund - R5	Peppin Heritage Centre - Masterplan Implementation Town Hall Revitalisation Project	\$939,885	\$939,885
Local Roads and Community Infrastructure - R1	McLeans Beach Amenities Memorial Park Amenities	\$963,170	\$10,577
Local Roads and Community Infrastructure - R3	Saleyards Refurbishment	\$426,340	\$404,740
Local Roads and Community Infrastructure - R4	Parts 1 and 2 - Not yet allocated. Subject of a separate report	\$1,518,748	\$1,518,748

Government Funding Body	Project	Total Funding	Funding Remaining
Regional Airport Program Local Roads and Community Infrastructure - R3	Deniliquin Aerodrome - Strengthening and Lighting	\$4,000,000	\$3,441,396
Murray Darling Diversification Funding	Edward River Village	\$1,000,000	\$0.00
Fixing Local Roads - TfNSW	Pothole repairs on road Networks	\$549,015	\$504,373
Office of Local Government	Flood Recovery - Essential Public Assets (being assessed)	\$1,000,000	\$1,000,000
Department of Planning & Environment	Edward River Skate Park Development	\$500,000	\$490,649
Fixing Country Roads	Pretty Pine Road Widening	\$1,736,972	\$1,736,022
Regional & Local Road Repair Program	Flood recovery - Road Network	\$2,914,961	\$2,819,451
NCIF	Truck Stop Strategy	\$10,000	\$10,000

Project budgets, actuals, balance and percentage complete is attached.

## ISSUE/DISCUSSION

### Project

### Updates

#### Memorial Park Amenities

Project description	Construction of new amenities at Memorial Park
Funding	Council, NSW Showground Stimulus and Local Roads and Community Infrastructure R1
Timing	Expected completion date end of June 2023
Update	Completion has been delayed to early July 2023 due to bad weather.

**DNA Clubrooms extension**

<b>Project description</b>	<b>Extension of DNA Clubrooms (managed by the DNA and Cricket Club committees).</b>
Funding	SCCF R4 (Deniliquin Cricket Club) and NSW Showground Stimulus
Timing	Anticipated completion June 2024
Update	Planning consent has been obtained through Council DA process, construction tender documentation is complete and is due to be released through tenderlink.

**Lighting Deniliquin and Blighty Reserves**

<b>Project description</b>	<b>Provide improved lighting to sporting grounds - Hardinge St Oval, Blighty Oval and Memorial Park</b>
Funding	SCCF R4
Timing	Anticipated completion June 2024
Update	Council staff expect to confirm what can be achieved at all three sites in July 2023, and provide an options report to Council in August/September 2023. If it is decided to utilise existing Essential Energy supplies, works are expected to be tendered in October/November 2023, with all works completed by 30 June 2024.  Extensions of time are being sought from the Funding Body.

**McLean Beach Change Rooms**

<b>Project description</b>	<b>Refurbishment of McLean Beach timber change rooms</b>
Funding	Local Roads and Community Infrastructure R1
Timing	Due for completion June 23
Update	McLean Beach amenities or change sheds have been significantly upgraded and now include compliant disability access. Bad weather has delayed final painting on the outside and should now be completed in early July 2023.

**Airport Upgrade**

<b>Project description</b>	<b>Runway Strengthening and improved lighting.</b>
Funding	Regional Airport Program, Local Roads and Community Infrastructure - R3 and Council
Timing	Due for completion September 2023
Update	The runway strengthening and lighting project has commenced with works well underway continuing throughout patches of inclement weather.

**Edward River Village**

<b>Project description</b>	<b>Stage 1 - Construction of 6 dwellings</b>
Funding	Murray Darling Basin Diversification Funding and Council
Timing	Multi Year Project
Update	The first dwelling is well underway and the slab for the 2nd dwelling will be poured once the rain has stopped. New pole and transformer installation has been confirmed by the supplier and the street lighting will be installed in early July 2023.

**Refurbishment of the Saleyards**

<b>Project description</b>	<b>Refurbishment of the Deniliquin Saleyards</b>
Funding	Local roads and Community Infrastructure R3
Timing	Due for Completion June24
Update	The tender for the Refurbishment of the Saleyards closed with no submissions. The Project Management Office will commence negotiations with local trades people in early July 2023.

**Peppin Heritage Centre - Masterplan Implementation**

Project description	To activate the masterplan implementation for the Peppin Heritage Centre
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Funding	Stronger Country Communities - R5
Timing	Due for Completion January 2026.
Update	Consultation with Heritage Centre stakeholders and Museum curators has commenced. Works to the floor in the museum to repair flooring, bearers and piers damaged by termites will go out to quote in mid-July 2023 with works to be complete by end of August 2023.

**Pothole repairs**

<b>Project description</b>	<b>Pothole repairs throughout the road network</b>
Funding	Fixing Local Roads - Pothole Repairs
Timing	Due for Completion February 2024
Update	Council has, to date, completed repairs to 568 potholes throughout the LGA road network.

**Flood Recovery - Road Network**

<b>Project description</b>	<b>Damage repairs throughout the road network due to flooding</b>
Funding	Regional & Local Road Repair Program
Timing	Due for Completion February 2024
Update	Required works have been compiled and materials are being ordered for works to comment in July.

**Deniliquin Skate Park**

<b>Project description</b>	<b>Development of a new Skate Park - Stage 1</b>
Funding	Department of Planning and Environment
Timing	Due for Completion June 2024
Update	Construction tender is complete and will be released on tenderlink by early July 2023.

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**Pretty Pine Road Widening**

<b>Project Description</b>	<b>Widening of Pretty Pine Road to improve Heavy Vehicle route.</b>
Funding	Fixing Country Roads
Timing	Multiyear project
Update	This funding is subject to approved funding from HVSP. An application has been lodged with HVSP and Council expects a decision in July 2023.

**STRATEGIC IMPLICATIONS****COMMUNITY STRATEGIC PLAN**

- 4. Delivering community assets and services
  - 4.1 Vibrant villages and towns
  - 4.2 Reliable Water and Sewerage
  - 4.3 Friendly and Supportive Customer service

**FINANCIAL IMPLICATIONS**

Projects funded through these programs include costs for the design, documentation, and supervision costs for each project.

**LEGISLATIVE IMPLICATIONS**

Council must ensure that these projects are completed within the timeframes set out within the funding agreements.

**ATTACHMENTS**





## Current/Active Funded Projects

Funding Source	Project Title	Total Budget	Actual Expenses	Balance Remaining	Percentage Complete
<b>Stronger Communities Fund - R2</b>		<b>\$ 10,000</b>	<b>\$ -</b>	<b>\$ 10,000</b>	
	Truck Stop Strategy				0%
<b>NSW Showground Stimulus Funding - P2</b>		<b>\$ 1,500,703</b>	<b>\$ 222,031</b>	<b>\$ 1,278,672</b>	
	Demolition & Construction of amenities	\$ 141,894	\$ 138,431		95%
	Extension of Clubrooms - DNA	\$ 347,067	\$ 21,708		25%
	Roadway & Carparking Eastern Side	\$ 232,716	\$ 30,946		10%
	Sealed Access Roads, Carpark, K&G	\$ 630,145	\$ 30,946		10%
<b>Stronger Country Communities Funding - R4</b>		<b>\$ 1,113,338</b>	<b>\$ 59,386.00</b>	<b>\$ 1,053,952</b>	
	Lighting Deniliquin and Blighty Rec Reserves		\$ 59,386		10%
<b>Local Roads &amp; Community Infrastructure Program R1</b>		<b>\$ 963,170</b>	<b>\$ 952,593</b>	<b>\$ 10,577</b>	
	McLean Beach Amenities	\$ 142,251	\$ 131,694		95%
	Memorial Park Amenities Upgrade	\$ 153,170	\$ 153,170		95%
<b>Local Roads and Community Infrastructure R4</b>		<b>\$ 1,518,748</b>	<b>\$ -</b>	<b>\$ 1,518,748</b>	
Part 1	Not yet allocated	\$ 963,170			0%
Part 2	Not yet allocated	\$ 555,578			0%
<b>Various Funding</b>		<b>\$ 5,900,000</b>	<b>\$ 558,604</b>	<b>\$ 5,341,396</b>	
RAP1	Deni Runway Upgrade - Strengthening & Lighting	\$ 2,500,000			30%
LRCI R3		\$ 1,500,000	\$ 558,604		
Council		\$ 1,900,000			
<b>Various Funding</b>		<b>\$ 4,430,000</b>	<b>\$ 2,121,863</b>	<b>\$ 2,308,137</b>	
Murray Darling Diversification Funding	Edward River Village	\$ 1,000,000	\$ 1,000,000		70%
Council		\$ 520,000	\$ 520,000		
Council sales revenue		\$ 2,910,000	\$ 601,863		
<b>Local Roads and Community Infrastructure - R3</b>		<b>\$ 426,340</b>	<b>\$ 21,600</b>	<b>\$ 404,740</b>	
	Refurbishment of the Saleyards		\$ 21,600		5%
<b>Stronger Country Communities R5</b>		<b>\$ 939,885</b>	<b>\$ -</b>	<b>\$ 939,885</b>	
	Peppin Heritage Centre - Masterplan Implementation	\$ 714,000	\$ -	\$ 714,000	5%
	Town Hall Revitalisation Project - Regional	\$ 225,885	\$ -	\$ 225,885	5%
<b>Fixing Local Roads</b>		<b>\$ 549,015</b>	<b>\$ 44,642</b>	<b>\$ 504,373</b>	
	Pothole repairs on road network		\$ 44,642		10%
<b>Regional &amp; Local Road Repair Program - TfNSW</b>		<b>\$ 2,914,961</b>	<b>\$ 95,510</b>	<b>\$ 2,819,451</b>	
	Flood Recovery - Road network		\$ 95,510		10%
<b>Flood Recovery - Office of Local Government</b>		<b>\$ 1,000,000</b>		<b>\$ 1,000,000</b>	
	Flood Recovery - Essential Public Assets		Being assessed		95%
<b>Department of Planning and Environment</b>		<b>\$ 500,000</b>	<b>\$ 9,351</b>	<b>\$ 490,649</b>	
	Edward River Skate Park Development		\$ 9,351		5%
<b>Fixing Country Roads</b>		<b>\$ 1,736,972</b>	<b>\$ 950</b>	<b>\$ 1,736,022</b>	
	Pretty Pine Road - Widening		\$ 950		0%

## **12.9. RESOLUTIONS OF COUNCIL**

**Author: Executive Assistant**

**Authoriser: Chief Executive Officer**

### **RECOMMENDATION**

That Council note the information in the Resolutions of Council as at 7 July 2023.

### **BACKGROUND**

The attached report details the status of open Resolutions of Council.

Total of open resolutions from the 2020 Financial Year onward - 1

Total Resolutions of Council for the 2022/2023 Financial Year - 230

Total Closed Resolutions of Council for the 2022/2023 Financial Year - 226

### **ISSUE/DISCUSSION**

Monthly report to update Councillors and community members on the progress of Council Resolutions.

### **STRATEGIC IMPLICATIONS**

As outlined in the status updates.

### **COMMUNITY STRATEGIC PLAN**

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

### **FINANCIAL IMPLICATIONS**

N/A

### **LEGISLATIVE IMPLICATIONS**

N/A

### **ATTACHMENTS**

Council meeting resolutions as at 7 July 2023

**Attachment 1 - Council meeting resolutions at 7 July 2023**

## Council Meeting Resolutions as at 7 July 2023

20 June 2023	Ordinary Council Meeting	Responsibility	Status	Expected Date of Completion
2023/0620/12.1	2023-24 Operational Plan & Budget – Revised Draft That Council adopt the 2023-24 Operational Plan and Budget as amended based on community consultation	Director Corporate Services	Adopted	Closed
2023/0620/12.2	Resourcing Strategy That Council: 1. Adopts the updated Resourcing Strategy incorporating the Long-Term Financial Plan, Asset Management Strategy and Workforce Management Strategy. 2. Notes that the Long-Term Financial Plan Scenario 2 Enhanced Asset Investment Model, is the recommended scenario as detailed in the endorsed Financial Sustainability Report. 3. Notes that, in response to community feedback, the Long-Term Financial Plan Scenario 1, Base Case, is the scenario on which the 2023-24 Operational Plan and budget have been prepared.	Chief Executive Officer	Adopted	Closed
2023/0620/12.3	Making of the Rates 2023-24 That Council 1. Make the Rates and Charges for the 2023/24 rating year as outlined in this report using the land values with a base date valuation of 1 July 2022; 2. Make three (3) ordinary rates, being Business, Farmland and Residential; 3. Continue with the minimum rate / ad-valorem for Business rates and the base rate / ad-valorem basis for Farmland and Residential Rates 4. Approves an increase to overall rates by 4.4%, being the maximum amount allowable as determined by the Independent Pricing & Regulatory Tribunal (IPART) 5. Adopts the overdue Rates & Charges maximum interest rate of 9% on all overdue interest rate, in accordance with section 566 (3) of the Act.	Acting Chief Financial Officer	Adopted	Closed
2023/0620/12.4	DA 2022/0090 – Service Station – 66-72 Hardinge Street, Deniliquin That Council resolves to: -	Director Infrastructure	Approved	Closed

## Council Meeting Resolutions as at 7 July 2023

	<p>1. APPROVE the development application DA2022/0090 for a Service Station , on Lot 1 DP 839101 and Lot 3 50 DP 758913, 66-70 &amp; 72 Hardinge Street, Deniliquin as shown on plan numbered TP01 - TP06, BD-EDEN-0901, BD-EDEN-0401, BD-EDEN-3802, BD-EDEN-0701 &amp; LAN LA/01/DEN SS/PP2022 and described in details accompanying the Development Application, in accordance with section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the following reasons: a. The proposed development is permissible within the zone under the Deniliquin Local Environmental Plan 2013 and complies with the provisions of the environmental planning instrument.</p> <p>b. The proposed development, subject to the imposition of conditions, is unlikely to have any unreasonable impact on the environment, and where an adverse impact has been identified appropriate conditions have been imposed to mitigate the effects.</p> <p>2. Impose conditions of consent as outlined in attachment 1.</p>			
2023/06/12.5	<p>DA2023/0026 – Residential Shed – 205 Henry Street, Deniliquin That Council resolves to: -</p> <p>1. APPROVE Development Application DA2023/0026 for use of the Residential Shed, at Lot E DP402718, 205 Henry Street , Deniliquin, as shown on plan numbered A101, A201, A202, A302, A303 &amp; A304 and described in details accompanying the Development Application, in accordance with section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the following reasons:</p> <p>a) The application complies with the applicable planning controls and has demonstrated to have a satisfactory effect on the environment.</p> <p>b) Council has considered the concerns raised regarding the development and has determined that there are insufficient grounds to refuse the application.</p> <p>c) The application is compliant with the key planning provisions contained within the Deniliquin Local Environmental Plan 2013 and the Deniliquin Development Control Plan 2016.</p> <p>2. Impose the conditions outlined in attachment 4</p>	Director Infrastructure	Approved	Closed

## Council Meeting Resolutions as at 7 July 2023

2023/06/12.7	<p>Councillor and Mayoral Fees 2023-24</p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1. Set the Mayoral annual fee for 2023-24 at \$28,430, the maximum amount allowable, being a 3% increase from the previous years maximum, in line with the annual determination by the Local Government Remuneration Tribunal dated 27 April 2023, noting that Council declined to accept the 2% increase in 2022-23.</li> <li>2. Set the Councillor's annual fee for 2023-24 at \$13,030, the maximum amount allowable, being a 3% increase from the previous years maximum, in line with the annual determination by the Local Government Remuneration Tribunal dated 27 April 2023, noting that Council declined to accept the 2% increase in 2022-23.</li> <li>3. Notes that the total 2023-24 Councillor and Mayoral fees, should Council adopt the maximum fees, will be \$145,700, an increase of \$4,250 from the 2022-23 actual fees.</li> </ol>	Acting Chief Financial Officer	Approved	Closed
2023/0620/12.8	<p>Adoption of Plans of Management</p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1. Adopt the Plans of Management noted below, pursuant to Section 40 of the Local Government Act 1993 and in accordance with 3.23(6) of the Crown Land Management Act 2016: <ul style="list-style-type: none"> <li>o Plan of Management for Gorman Park Reserve,</li> <li>o Plan of Management for North Tennis Club Reserve,</li> <li>o Plan of Management for the Deniliquin Sewerage Treatment Plant,</li> <li>o Plan of Management for Davidson Street Old Landfill Site,</li> <li>o Plan of Management for Former Scout Hall,</li> <li>o Plan of Management for Various Reserves (Mayrung Hall, Maude Soil Conservation Area, Wanganella Common, Macauley Street, Wanganella Tennis Courts and Rotary Park Plantation), Plan of Management for Murray Valley Industry Park Reserve and;</li> <li>o Plan of Management for Various Reserves (Coonambigil Creek, Outback Youth Centre Reserve, Sloane Street Boat Ramp, Edward River Reserve, Yarralong Park Reserve, Strip between VRA &amp; Medical Centre, Twin Rivers Reserve, Russell Street Stormwater Basin Reserve, Wanderer Street Reserve, R J Edwards Park Reserve, Bound by Burton, Harfleur, Decimus Streets Reserve,</li> </ul> </li> </ol>	Director Infrastructure	Adopted	Closed

## Council Meeting Resolutions as at 7 July 2023

	Henry Street Boat Ramp Reserve, Neighborhood Park Reserve, Warragoon Public School Reserve and Bills Park Reserve). 2. Give public notice of the adoption of the Plans of Management.			
2023/0620/12.9	Edward River Council Arts & Culture Advisory Committee – Appointment of Committee Members That Council: 1. Amend the Terms of Reference to provide for four community representatives 2. Appoint the following representatives to the Edward River Council Arts & Culture Advisory Committee: a. Bronwyn Bathgate, ArtLife representative b. Deidre Hamilton, Yarkuwa Indigenous Knowledge Centre representative c. Helen Thomson, U3A representative d. Kerry-Anne Jones, South West Arts representative e. Matthew Johnson, Kurrajong representative f. Paul Young, South West Music representative g. Sarah Parsons, Outback Theatre for Young People representative h. Tina Pisasale, Deniliquin Dramatic Society representative i. Vicki Lowry, Deni Play on the Plains Festival Ltd representative j. Virginia Reid, Edward River Arts Society representative k. Baron De Merxhausen, Community representative l. Melanie Andersen, Community representative m. Narelle Whitham, Community representative n. Kate Butler, Community representative	Director Corporate Services	Terms of Reference amended.	Closed
2023/0620/12.10	Edward River Village Update That Council notes the update on the status of the Edward River Village Project Note that a table has been missed in the agenda and will be added to the public minutes.	Chief Executive Officer	Table added to the public minutes	Closed
16 May 2023	Ordinary Council Meeting	Responsibility	Status	Expected Date of Completion

## Council Meeting Resolutions as at 7 July 2023

2023/0516/12.6	<p>Alcohol Free Zone</p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1. Prepare a proposal for the re-establishment of an Alcohol Free Zone within the area outlined in red in Attachment 1 of this report showing the Proposed AFZ 2023-2027, in accordance with section 644 of the Local Government Act,</li> <li>2. Undertake public consultation of the proposal to establish the Alcohol Fee Zone within the area outlined in red in Attachment 1 of this report showing the Proposed AFZ 2023-2027, in accordance with Section 644A of the Local Government Act and the Ministerial Guidelines on Alcohol Free Zone (February 2009), and</li> <li>3. Upon completion of this public consultation, consider a further report on the proposal to establish the Alcohol Free Zone.</li> </ol>	Manager Development Services	On Public Exhibition to 6 July 2023.	18 July 2023
20 December 2022	Ordinary Council Meeting	Responsibility	Status	Expected Date of Completion
2022/1220/13.2	<p>Notice of Motion – Flood Plans and Mitigation Works</p> <p>That Council:</p> <ol style="list-style-type: none"> <li>1. Agree to hold a community meeting prior to end of March 2023, providing an overview of Council's flood plans and mitigation works that are currently in place, and discussing potential options for North Deniliquin, following the November 2022 floods.</li> <li>2. Requests the Chief Executive Officer to invite an appropriate panel of expert staff to answer questions and provide information to the community on what could potentially be developed into the future.</li> </ol>	Director Infrastructure	<p>1.Meeting held March 2023.</p> <p>2.WMA Water engaged to provide expert advice.</p> <p>3.Underway</p>	<p>May 2023</p> <p>July 2024</p>

## Council Meeting Resolutions as at 7 July 2023

	3. Provides a further report to a Councillor briefing, prior to June 2023, outlining a potential project for flood mitigation to be advocated to the state government for funding.			
<b>18 October 2022</b>		<b>Responsibility</b>	<b>Status</b>	<b>Expected Date of Completion</b>
<b>2022/1018/12.5</b>	<p>Town Hall Land That Council:</p> <ol style="list-style-type: none"> <li>1. Commence the process to consolidate Lot 1 in DP1173376, Lots X and Y in DP410447, Lot 9 in DP662508, Lot 6 in DP667946 and Lot 6 in DP668426, and</li> <li>2. Apply to Crown Lands to undertake a boundary adjustment for Lot 7 Sec 21 DP758913, being the Town Hall land parcel, to allow for the new foyer entrance to the Town Hall.</li> </ol>	Manager Development	<p>Process commenced.</p> <p>Application made to Crown Lands. Awaiting favourable outcome regarding application</p>	<p>Open</p> <p>June 2023</p>
<b>15 July 2021</b>	<b>Resolution</b>	<b>Responsibility</b>	<b>Status</b>	<b>Expected Date of Completion</b>
<b>2021/96</b>	<p>Saleyards Strategic Plan That Council:</p> <ol style="list-style-type: none"> <li>1. Council defer decision to divest and close the cattle yards and not adopt strategic plan for 12 months.</li> <li>2. Form a user group to assist Council and the new lease holder to improve the facility.</li> <li>3. Council investigate the scaling down to three runs to a 300 head of cattle capacity in 12 months.</li> <li>4. Council initiate a complete WHS report on the three cattle runs.</li> <li>5. Provides a report with a recommendation on the outcome of the expression of interest process by November 2021.</li> </ol>	Director Infrastructure	<p>1. Noted</p> <p>2. Completed</p> <p>3. Underway</p> <p>4. WHS report received.</p> <p>5. Tender in currently being advertised.</p>	<p>Completed</p> <p>Completed</p> <p>June 2024</p> <p>Completed</p>

## Council Meeting Resolutions as at 7 July 2023

	6. Includes the development of the Saleyards in its advocacy strategy and investigates funding opportunities to assist with future development of the sales. 7. Includes the development of the saleyards in Council's long term financial plan, and 8. Prepares a management plan for the ongoing operation of the sale yards facility.		6.Underway as part of review of Advocacy Strategy 7.Included in scenarios for 23/24 LTFP. 8.To be prepared as part of the commencement of new lease.	June 2024  August 2024
<b>20 August 2020</b>	<b>Resolution</b>	<b>Responsibility</b>	<b>Status</b>	<b>Expected Date of Completion</b>
<b>2020/164</b>	North Deniliquin Levee Upgrade Feasibility Report That Council: <ol style="list-style-type: none"> <li>1. Adopt the North Deniliquin Levee Upgrade Feasibility Report, contained as Attachment 1 to this report, and;</li> <li>2. Apply to Office of Environment and Heritage for funding of the works detailed in the North Deniliquin Levee Upgrade Feasibility Report</li> </ol>	Manager Engineering & Assets	Underway  <del>Waiting on funding details.</del> <del>Feasibility being finalised.</del> <del>To briefing September.</del>	Waiting on funding applications to open.

## 12.10. MAYOR, COUNCILLOR, CEO MEETINGS JUNE 2023

**Author:** Executive Assistant

**Authoriser:** Chief Executive Officer

### RECOMMENDATION

That Council

1. Note the Mayor, Councillor and Chief Executive Officer meetings attended on behalf of Council during the month of June 2023.
2. Continue to advise the Chief Executive Officer's Executive Assistant of their meeting diaries and activities attendance.

### BACKGROUND

The report details meetings undertaken on behalf of Council by the Mayor, Councillors and the Chief Executive Officer during June 2023

### ISSUE/DISCUSSION

Date	Participants	Meeting
1 June 2023	Chief Executive Officer	Local Government Professional Conference Sydney
2 June 2023	Mayor, Deputy Mayor, Cr Burge, Cr Fawns, Cr Petersen	Handover of Repaired Honour Roll Deniliquin Uniting Church
5 June 2023	Mayor	Water Treatment Plant Raw Water Pump Replacement
6 June 2023	Chief Executive Officer	Regional NSW Meeting
8 June 2023	Mayor, Cr Fawns, Chief Executive Officer	Murray Darling Basin Plan - Implementation Review 2023
8 June 2023	Mayor, Deputy Mayor, Chief Executive Officer	Edward River Village Campaign Launch
9 June 2023	Mayor, Chief Executive Officer	Citizenship Ceremony
13 June 2023	Mayor, Cr Fawns, Chief Executive Officer	2023 National General Assembly - Our Communities Our Future
14 June 2023	Mayor, Cr Fawns, Chief Executive Officer	2023 National General Assembly - Our Communities Our Future
15 June 2023	Mayor, Cr Fawns, Chief Executive Officer	2023 National General Assembly - Our Communities Our Future
16 June 2023	Mayor, Cr Fawns, Chief Executive Officer	ACLG Forum
21 June 2023	Mayor, Chief Executive Officer	Discussion for potential Airport s355 Committee

Date	Participants	Meeting
21 June 2023	Deputy Mayor	Legless & Blind Blokes Night In
26 June 2023	Mayor	Sydney Youth Orchestra
28 June 2023	Mayor, Chief Executive Officer	RAMJO Extraordinary Board Meeting

## STRATEGIC IMPLICATIONS

N/A

## COMMUNITY STRATEGIC PLAN

5. Accountable leadership and responsive administration

5.1 Collaborative and Engaged

## 13. NOTICES OF MOTIONS

## 14. QUESTIONS WITH NOTICE

## 15. CONFIDENTIAL MATTERS

### 15.1. CONTRACT C2023/01 - REGIONAL KERBSIDE COLLECTION SERVICES TENDER

**Author:** Manager Engineering and Assets

**Authoriser:** Director Infrastructure

The Council is satisfied that, pursuant to Section 10A(2) of the Local Government Act 1993, the information to be received, discussed or considered in relation to this agenda item is:

- d (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

### 15.2. GROWTH STRATEGY TENDER

**Author:** Manager Community & Economic Development

**Authoriser:** Director Corporate Services

The Council is satisfied that, pursuant to Section 10A(2) of the Local Government Act 1993, the information to be received, discussed or considered in relation to this agenda item is

- d (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**16. CLOSE OF MEETING**