



# **Meeting of Riverina Water County Council**

The meeting will be held in the Pat Brassil AM Meeting Room,  
91 Hammond Ave, Wagga at 9:30am on Wednesday, 14  
December 2022.

# Meeting Agenda

## Live Streaming of Council Meetings

Riverina Water advises that Council meetings are live streamed on Council's website [www.riverinawater.nsw.gov.au](http://www.riverinawater.nsw.gov.au). Visitors in the public gallery are advised that their voice and/or image may form part of the webcast. By remaining in the public gallery it is assumed your consent is given in the event your image or voice is broadcast.

## Statement of Ethical Reminders

Board members are reminded of the Oath or Affirmation of Office that they made under Section 233A of the Local Government Act 1993. Board members and staff are also reminded of their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

## Acknowledgement of Country

## Livestreaming of Meeting

## Apologies

## Declaration of pecuniary and non-pecuniary interests

## Confirmation of Minutes

### Minutes of Board Meeting 26 October 2022

## Correspondence

## Open Reports

R1	List of Investments .....	4
R2	POL 1.23 Investments Policy .....	13
R3	Code of Conduct Policy and Procedure for Administration of the Code of Conduct .....	28
R4	Internal Reporting (Protected Disclosures) Policy .....	111
R5	Enterprise Risk Management Policy .....	130
R6	Equal Employment Opportunity Policy .....	139
R7	Drinking Water Quality Management Policy .....	152
R8	Rural Substant Meters Policy .....	159
R9	Asset and Infrastructure Naming Policy .....	166
R10	Records Management Policy Recission .....	172
R11	Project Management Policy Recission .....	177
R12	Pesticide Use Notification Plan .....	181

R13	Code of Conduct Statistical Report to 31 August 2022.....	185
R14	Request for sponsorship: Wagga Wagga Takes 2 .....	186
R15	First Nations artwork commission and branding extension .....	189
R16	Local Water Utility Dividend Consultation Paper .....	191
R17	One Organisation: The Way Forward .....	223
R18	Budget for Electrical Design Work .....	229
R19	Employee participation in Sindhuli Nepal Project Team - Partnering with South Wagga Wagga Rotary .....	232
R20	Review of Engineering Structure .....	234
R21	Works Report covering October 2022.....	238
R22	Works Report covering November 2022.....	247
R23	Council Resolution Sheet.....	256

## **Committee Minutes**

M1	Minutes of Audit, Risk and Improvement Committee held on 24 November 2022 .....	260
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## **Questions and Statements**

## **Confidential Reports**

CONF-1	Raw Water Pump Tender W291 .....	270
CONF-2	Update on UGL Cost to Complete Claim .....	271
CONF-3	Conduct of the Annual Performance Review for Chief Executive Officer .....	272

# R1 List of Investments

## Organisational Area Corporate Services

**Author** Emily Tonacia, Director Corporate Services

**Summary** This report details the status of Riverina Water's investment portfolio for the months of October and November 2022.

**RECOMMENDATION** that Council receive and note the report detailing external investments for the months of October and November 2022.

## Report

In accordance with the provisions of Clause 19(3) of the Local Government (Financial Management) Regulation 1993, reported are the details of Council's external investment portfolio as of October and November 2022.

- › **R1.1 Investment Report - October 2022** [↓](#) 
- › **R1.2 Investment Report - November 2022** [↓](#) 

## Financial Implications

Not applicable.

## Risk Considerations

Financial	
Avoid	Council will endeavour to ensure that its financial sustainability is protected at all times and avoid proposals that may impact negatively.



**Monthly Investment Report as at 31/10/2022**

Investment	Inception Date	Term (Days)	Maturity Date	S&P Rating	Interest Rate (%)	Percentage of Portfolio	Principal Value	Market Value
<b>Term Deposits</b>								
ING	23/06/2022	730	22/06/24	A-2	4.40	7.251%	\$2,000,000.00	\$2,000,000.00
Westpac	19/08/2022	364	18/08/23	A-1+	1.86	10.877%	\$3,000,000.00	\$3,000,000.00
Australian Unity Bank	8/07/2022	731	08/07/24	A-2	4.24	7.251%	\$2,000,000.00	\$2,000,000.00
Australian Unity Bank	25/07/2022	731	25/07/24	A-2	4.34	9.064%	\$2,500,000.00	\$2,500,000.00
BOQ	25/07/2022	365	25/07/23	A-2	4.07	9.064%	\$2,500,000.00	\$2,500,000.00
AMP	29/09/2022	732	30/09/24	A-2	4.95	7.251%	\$2,000,000.00	\$2,000,000.00
National Australia Bank	23/09/2021	733	26/09/23	A-1+	0.63	5.439%	\$1,500,000.00	\$1,500,000.00
AMP	14/09/2021	730	14/09/23	A-2	0.75	3.626%	\$1,000,000.00	\$1,000,000.00
BOQ	6/05/2021	732	08/05/23	A-2	0.49	9.064%	\$2,500,000.00	\$2,500,000.00
BOQ	21/06/2022	365	21/06/23	A-2	0.40	5.439%	\$1,500,000.00	\$1,500,000.00
National Australia Bank	13/10/2022	96	17/01/23	A-1+	3.46	3.626%	\$1,000,000.00	\$1,000,000.00
National Australia Bank	8/06/2021	730	08/06/23	A-1+	0.60	7.251%	\$2,000,000.00	\$2,000,000.00
National Australia Bank	8/06/2021	1099	11/06/24	A-1+	0.75	9.064%	\$2,500,000.00	\$2,500,000.00
National Australia Bank	2/03/2022	364	01/03/23	A-1+	0.53	5.439%	\$1,500,000.00	\$1,500,000.00
						<b>99.71%</b>	<b>\$27,500,000.00</b>	<b>\$27,500,000.00</b>
<b>Cash Deposit Account</b>								
T Corp				A-1+	0.00	0.00%	\$0.30	\$0.30
National Australia Bank				A-1+	0.17	0.293%	\$80,715.63	\$80,715.63
						<b>0.29%</b>	<b>\$80,715.93</b>	<b>\$80,715.93</b>
<b>TOTAL INVESTMENTS</b>						<b>100.00%</b>	<b>\$27,580,715.93</b>	<b>\$27,580,715.93</b>
Cash at Bank								\$1,619,469.10
<b>TOTAL FUNDS</b>								<b>\$29,200,185.03</b>

**CERTIFICATE**

I hereby certify that the investments listed above 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 Investments Policy number POL 1.23.



**E Tonacia**

**MANAGER CORPORATE SERVICES****Application of Investment Funds**

Restricted Funds	Description	Value
Externally Restricted	LIRS Loan Funds	\$0.00
		<u>\$0.00</u>
Internally Restricted	Employee Leave Entitlements (50% of ELE)	\$2,425,499.63
	Plant Replacement	\$1,142,112.41
	Loan Funds	\$0.00
	Sales Fluctuation	\$3,000,000.00
	Water Treatment Plant	\$228,250.00
	Water Licences	\$332,520.00
		<u>\$7,128,382.04</u>
Unrestricted Funds		\$22,071,802.99
<b>TOTAL FUNDS</b>		<b>\$29,200,185.03</b>

\* Externally & Internally Restricted Reserve figures are subject to final adjustment and external audit at 30 June each year. Figures shown above are estimates only.

## Report

The investment portfolio decreased by \$455,118.94 for the month. The decrease was due to income in October being lower than expenditure.

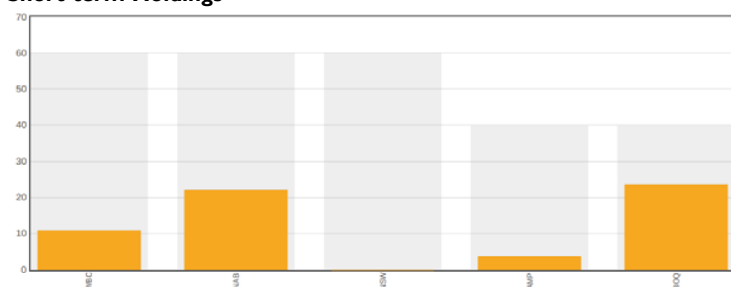
## Portfolio Performance

For the month of October, the portfolio (excluding cash) provided a return of +0.24% (actual), marginally underperforming the benchmark Ausbond Bank Bill Index return by +0.24% (actual). The relative 'underperformance' has been due to the unexpected aggressive rate hikes undertaken by the RBA. Whilst this 'underperformance' may continue in the short-term, this is anticipated to be temporary.

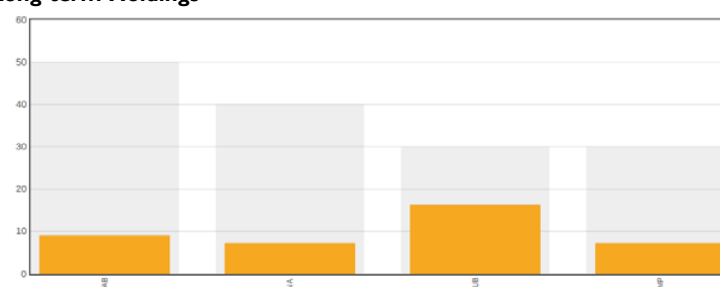
## Counterparty Compliance

The below graphs compare investments with each financial institution to the limits included in Council's Investment Policy

### Short-term Holdings



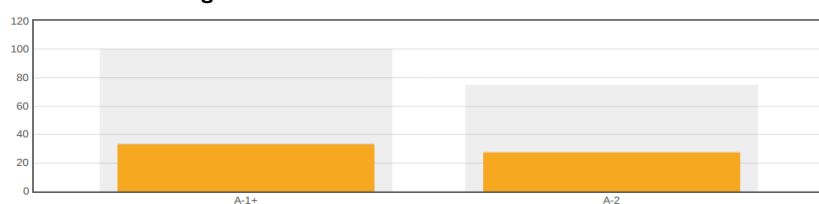
### Long-term Holdings



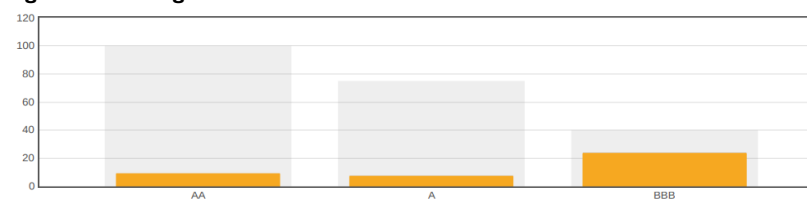
## Credit Quality Compliance

The below graphs compare investments with each investment rating category to the limits included in Council's Investment Policy

### Short-term Holdings

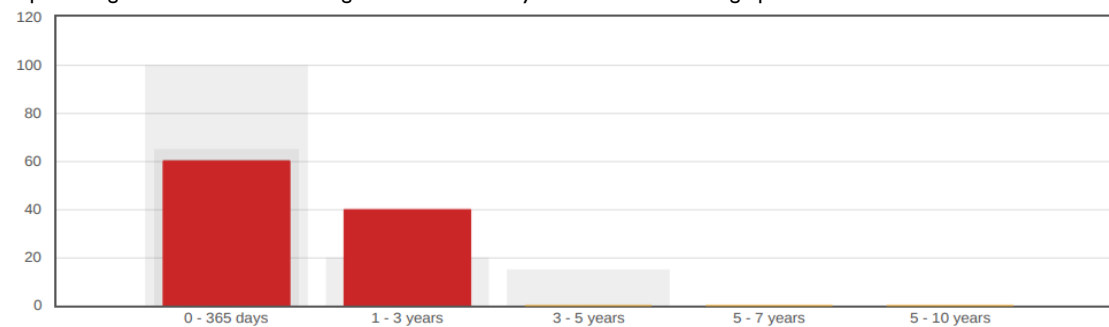


### Long-term Holdings



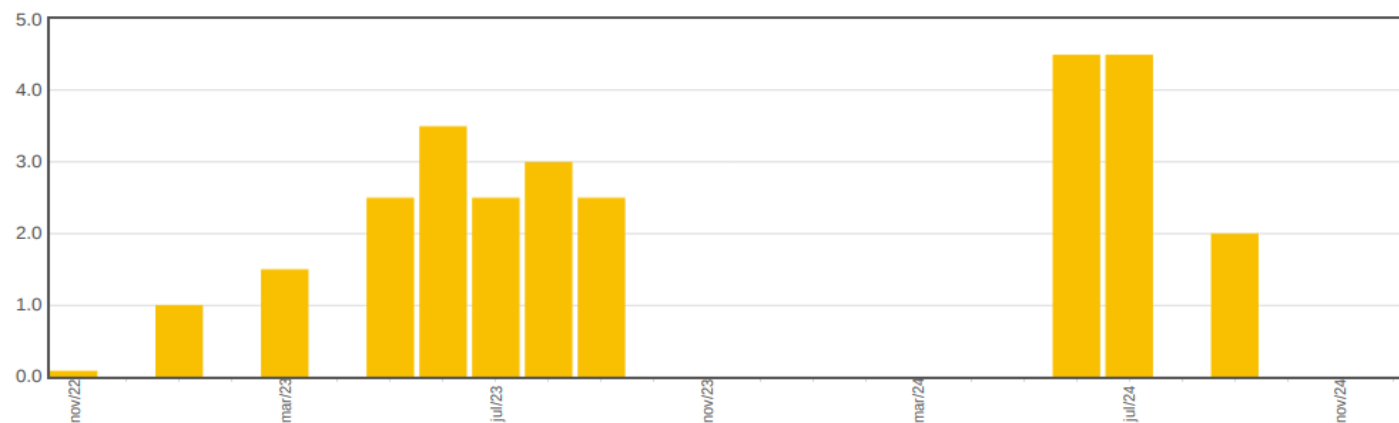
### Term to Maturity

The percentage of investments maturing over the next ten years is detailed in the graph below



### Maturity Cashflow

When investments will mature over time



**Monthly Investment Report as at 30/11/2022**

Investment	Inception Date	Term (Days)	Maturity Date	S&P Rating	Interest Rate (%)	Percentage of Portfolio	Principal Value	Market Value
<b>Term Deposits</b>								
ING	23/06/2022	730	22/06/24	A-2	4.40	7.251%	\$2,000,000.00	\$2,000,000.00
Westpac	19/08/2022	364	18/08/23	A-1+	1.86	10.877%	\$3,000,000.00	\$3,000,000.00
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AMP	14/09/2021	730	14/09/23	A-2	0.75	3.626%	\$1,000,000.00	\$1,000,000.00
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						<b>99.71%</b>	<b>\$27,500,000.00</b>	<b>\$27,500,000.00</b>
<b>Cash Deposit Account</b>								
National Australia Bank				A-1+	0.17	0.293%	\$80,783.96	\$80,783.96
						<b>0.29%</b>	<b>\$80,783.96</b>	<b>\$80,783.96</b>
<b>TOTAL INVESTMENTS</b>						<b>100.00%</b>	<b>\$27,580,783.96</b>	<b>\$27,580,783.96</b>
Cash at Bank								\$517,730.27
<b>TOTAL FUNDS</b>								<b>\$28,098,514.23</b>

**CERTIFICATE**

I hereby certify that the investments listed above 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 Investments Policy number POL 1.23.



**E Tonacia**

**MANAGER CORPORATE SERVICES**

**Application of Investment Funds**

Restricted Funds	Description	Value
Internally Restricted	Employee Leave Entitlements (50% of ELE)	\$2,277,547.08
	Plant Replacement	\$2,110,088.98
	Sales Fluctuation	\$3,000,000.00
	Water Treatment Plant	\$228,250.00
	Water Licences	\$669,385.20
		<hr/> \$8,285,271.26
Unrestricted Funds		\$19,813,242.97
<b>TOTAL FUNDS</b>		<b>\$28,098,514.23</b>

\* Externally & Internally Restricted Reserve figures are subject to final adjustment and external audit at 30 June each year. Figures shown above are estimates only.

## Report

The investment portfolio decreased by \$1,101,671 for the month. The decrease was due to income in November being lower than expenditure.

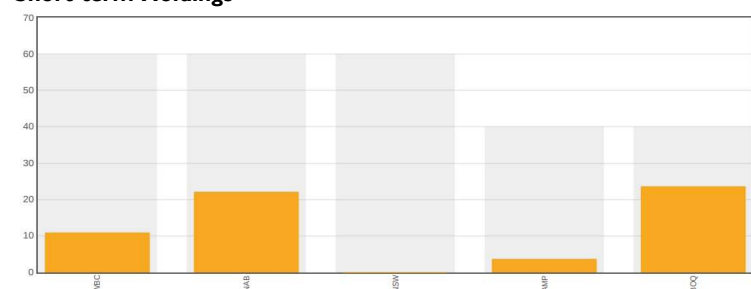
## Portfolio Performance

For the month of October, the portfolio (excluding cash) provided a return of +0.23% (actual), marginally underperforming the benchmark Ausbond Bank Bill Index return by +0.25% (actual). The relative 'underperformance' has been due to the unexpected aggressive rate hikes undertaken by the RBA. Whilst this 'underperformance' may continue in the short-term, this is anticipated to be temporary.

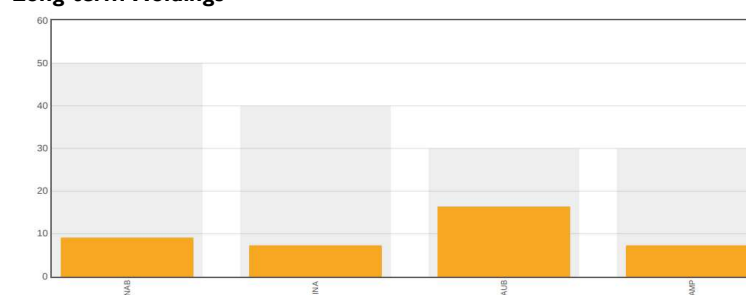
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The below graphs compare investments with each financial institution to the limits included in Council's Investment Policy

### Short-term Holdings



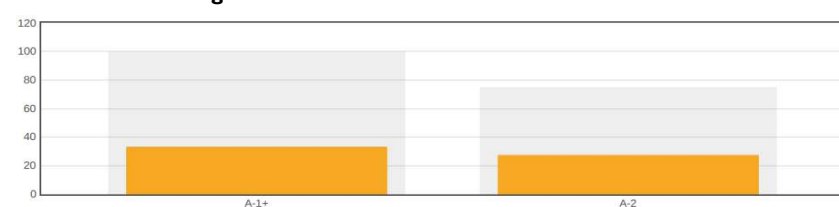
### Long-term Holdings



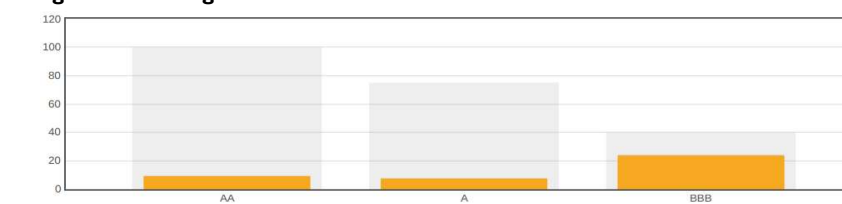
## Credit Quality Compliance

The below graphs compare investments with each investment rating category to the limits included in Council's Investment Policy

### Short-term Holdings

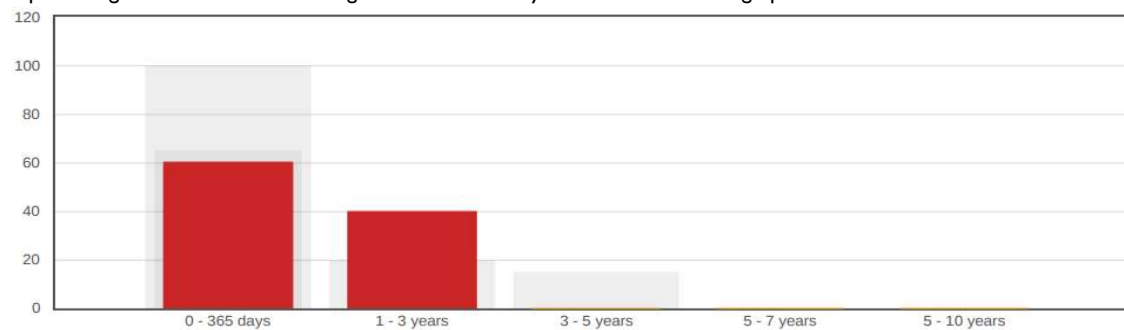


### Long-term Holdings



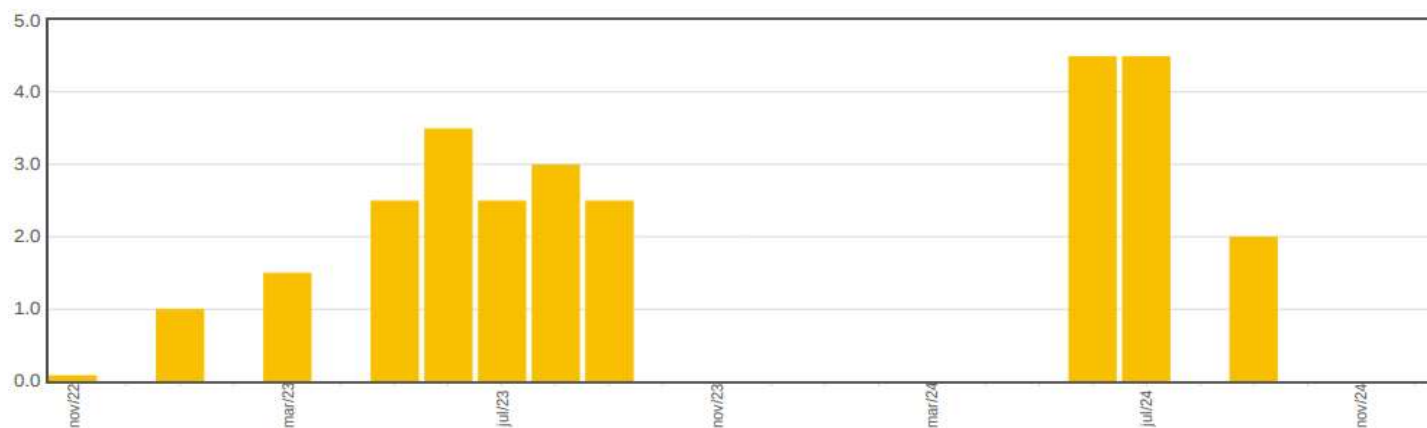
### Term to Maturity

The percentage of investments maturing over the next ten years is detailed in the graph below



### Maturity Cashflow

When investments will mature over time





## R2 POL 1.23 Investments Policy

### Organisational Area Corporate Services

**Author** Emily Tonacia, Director Corporate Services

**Summary** Riverina Water's Investment Policy (POL 1.23) is required to be reviewed every term, with any amendments approved by the board. A review has been undertaken and amendments are proposed to the current policy. This policy is presented for endorsement and placement on public exhibition.

### RECOMMENDATION that Council:

- a) Note the proposed changes to POL 1.23 – Investments Policy;
- b) Place the draft POL 1.23 – Investments Policy on public exhibition from 15 December 2022 to 31 January 2023 and invite public submissions on the draft policy; and
- c) Receive a further report following the exhibition and submission period:
  - i. Addressing any submissions made in respect of the proposed POL 1.23 – Investments Policy
  - ii. Proposing the adoption of the Policy unless there are any recommended amendment deemed to be substantial and requiring a further public exhibition period

### Report

Riverina Water's investment policy provides a framework for Riverina Water staff who have been delegated authority by the CEO to invest Riverina Water's funds. The policy ensures that adequate controls are in place to ensure Riverina Water's investments are managed appropriately, to maximise the return to Riverina Water in accordance with the risk appetite of the Board.

A review of the Investment Policy has been undertaken with input from Riverina Water's independent investment advisor, Imperium Markets. In undertaking this review, Imperium Markets and management took into consideration the general economic and market conditions as well as the ongoing impacts of the COVID-19 pandemic.

Following the review, it was determined the following amendments be included in the policy:

#### **2.8(a) Portfolio Credit Framework (Overall Portfolio Credit Limits)**

- Removal of Short-Term (ST) ratings now only referencing a financial institutions Long-Term (LT) ratings - The reason is if Riverina Water is comfortable to invest with any ADI (bank) based on its LT rating, it should be comfortable to invest with that same ADI (bank) regardless of its ST rating.

- The inclusion of 'Major Bank' to AA Category – This ensures in the case of a downgrade of the major banks (currently rated AA-), it still allows Riverina Water to invest all its funds with the major domestic banks.
- Increase of BBB Category from 40% to 70% - Largest number of rated banks (domestic) are in the BBB category, this increase gives Riverina Water more flexibility to hold more funds here.
- Reduction of Unrated from 40% to 20% - there has been low appetite to invest in this space. A reduction in % has been made to allow the increase in allocation to the BBB category.

#### **2.8 (b) Counterparty/ Institution Credit Framework (Individual Institution Limits)**

- Removal of Short-Term (ST) ratings now only referencing a financial institutions Long-Term (LT) rating - The reason is if Riverina Water is comfortable to invest with any ADI (bank) based on its LT rating, it should be comfortable to invest with that same ADI (bank) regardless of its ST rating.
- The inclusion of 'Major Bank' to AA Category – This ensures in the case of a downgrade of the major banks (currently rated AA-), it still allows Riverina Water to invest all its funds with the major domestic banks.
- Increase of BBB Category from 30% to 35% - Largest number of rated banks (domestic) are in the BBB category, this increase gives Riverina Water more flexibility to hold more funds here.
- Reduction of Unrated from 30% to 10% - there has been low appetite to invest in this space. A reduction in % has been made to allow the increase in allocation to the BBB category.

#### **2.8 (c) Term to Maturity Framework**

- Inclusion of 'Portfolio % < 3 months' – this ensure Riverina Water always has sufficient liquidity from a combination of at-call accounts and term deposits that are maturing regularly. 10% equates to approx. \$3mil (based on current holdings) at all times held in cash and T/Ds maturing under 3 months.
- Reduction in minimum from 60% to 50% for 'Portfolio % > 3 months < 1 year' – In line with the above change.
- Increase in maximum from 20% to 70% for 'Portfolio % > 1 year < 2 years' – this provides more flexibility to invest parcels for longer terms to avoid reinvestment/ rollover risk.
- Increase in maximum from 15% to 50% for 'Portfolio % > 2 years < 5 years' – this provides more flexibility to invest parcels for longer terms to avoid reinvestment/ rollover risk.

## **2.11 Environmentally and Socially Responsible Investments (SRI)**

Following feedback received from the board in earlier meetings, the draft policy now considers the SRI status of those financial institutions Riverina Water is investing with. Where financial institutions are offering equivalent investment returns with a similar credit rating, and the investment fits within the provisions of the Investment Policy, without compromising the risk and return profile of the portfolio, preference will be given to placing funds with institutions identified as being socially, ethically, and environmentally responsible.

All other changes to the policy are administrative or for formatting purposes.

The draft policy was also reported to the Audit, Risk, and Improvement Committee, at its 24 November 2022 meeting, which was accompanied by a presentation from Michael Chandra, Imperium Markets. The resolution from that meeting was:

- a) *Thank Michael Chandra for his presentation*
- b) *Note the comments offered during the meeting and that draft POL 1.23 - Investments be reviewed in light of those comments and then be presented to the December Board Meeting*

To allow the community adequate time to provide feedback on the policy over the Christmas break, it is recommended that the policy be placed on public exhibition for the period 15 December 2022 to 31 January 2023.

### **› R2.1      Draft POL 1.23 - Investments Policy** [↓](#)

#### **Financial Implications**

The content of the Investment Policy determines what types of investments and terms are allowable and its content outlines the framework Riverina Water staff can work within in making investment decisions.

The role of staff responsible for managing Riverina Water's investment portfolio is to maximise investment revenue earned, whilst adhering to the Investment Policy.

Riverina Water's portfolio balance was \$28M as of 30 November 2022 with budgeted investment income for the 2022/23 financial year of \$200K.

#### **Risk Considerations**

<b>Financial</b>	
Avoid	Council will endeavour to ensure that its financial sustainability is protected at all times and avoid proposals that may impact negatively.



## Investments

### Purpose

This policy provides a framework for the investing of Riverina Water County Council's (Riverina Water) funds.

### Policy Statement

Riverina Water will invest funds at the most favourable rate of interest available to it at the time, whilst having due consideration of risk and security for that investment type and ensuring that its liquidity requirements are being met.

While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity, and the return of investment:

- Preservation of capital is the principal objective of the investment portfolio. Investments are to be placed in a manner that seeks to ensure security and safeguard the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters.
- Investments should be allocated to ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the unanticipated sale of an investment.
- Investments are expected to achieve a market average rate of return in line with the Council's risk tolerance

### Scope

This policy applies to all investments made by Riverina Water County Council.



## Definitions

Act	Local Government Act 1993
ADI	Authorised Deposit Taking institutions (ADIs) are corporations that are authorised under the Banking Act 1959 (Cwth) to take deposits from customers.
AusBond BBI	The Bank Bill Index represents the performance of a notional rolling parcel of bills averaging 45 days and is the widely used benchmark for local councils and other institutional cash investments.
BBSW	The Bank Bill Swap reference rate (BBSW) is the average of mid-rate bank-bill quote from brokers on the BBSW Panel. The BBSW is calculated daily. Floating rate securities are most commonly reset quarterly to the 90-day BBSW.
Bill of Exchange	A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer.
Council funds	Surplus monies that are invested by Council in accordance with section 625 of the Act
Debenture	A debenture is a document evidencing an acknowledgement of a debt, which a company has created for the purposes of raising capital. Debentures are issued by companies in return for medium and long-term investment of funds by lenders.
FRN	A Floating Rate Note (FRN) is a medium to long term fixed interest investment where the coupon is a fixed margin ("coupon margin") over a benchmark, also described as a "floating rate". The benchmark is usually the BBSW and is reset at regular intervals – most commonly quarterly.
IP	The Investment Policy (IP) provides the general investment goals and objectives of Council and describes the strategies that must be employed to meet these objectives. Specific information on matters such as asset allocation, risk tolerance, and liquidity requirements are also included in the IP.
LGGR	Local Government (General) Regulation 2021 (NSW).



NCD	Is a short term investment in an underlying security being a negotiable certificate of deposit (NCD) where the term of the security is usually for a period of 185 days or less (sometimes up to 2 years). NCDs are generally discount securities, meaning they are issued and on-sold to investors at a discount to their face value.
OLG	NSW Office of Local Government, Department of Premier and Cabinet.
RAO	Responsible Accounting Officer of a council means a member of the staff of the council designated by the General Manager (CEO), or if no such member has been designated, the General Manager. (CEO) (LGGR, clause 196)
T-Corp	New South Wales Treasury Corporation.

### Legislative Context

All investments are to comply with the following:

- o Local Government Act 1993
- o Local Government (General) Regulation 2021
- o Ministerial Investment Order
- o Local Government Code of Accounting Practice and Financial Reporting
- o Australian Accounting Standards; and
- o Office of Local Government Circulars.



## **1 Policy Principles**

### **1.1 Delegation of Authority**

Authority for implementation of the Investments Policy is delegated by Council to the CEO in accordance with the Local Government Act 1993.

The CEO may in turn delegate the day-to-day management of Council's Investments to the Director Corporate Services.

Officers' who have delegated authority to manage Council's investments will be recorded and are required to acknowledge they have received a copy of this policy and understand their obligations in this role.

### **1.2 Prudent Person Standard**

The investment will be managed with the care, diligence, and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolios to safeguard the portfolio in accordance with the spirit of this Investment Policy, and not for speculative purposes.

### **1.3 Ethics and Conflicts of Interest**

Officers will refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the CEO.

Independent advisors are also required to declare that they have no actual or perceived conflicts of interest.

### **1.4 Approved Investments**

All investments must be denominated in Australian Dollars. Authorised Investments are limited to those allowed by the Ministerial Investment Order, currently:

- Commonwealth / State / Territory Government securities, for example bonds
- Interest bearing deposits / senior securities issued by an eligible ADI
- Bills of Exchange (< 200 days duration) guaranteed by an ADI
- Debentures issued by a NSW Council under Local Government Act (1993); and
- Deposits with T-Corp &/or Investments in T-CorpIM Funds

### **1.5 Prohibited Investments**

In accordance with the Ministerial Investment Order, this investment policy prohibits but is not limited to any investment carried out for speculative purposes including:

- Derivative based instruments



- Principal only investments or securities that provide potentially nil or negative cash flow
- Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind

This policy also prohibits the use of leveraging (borrowing to invest) of an investment.

## 1.6 Risk Management Guidelines

Investments obtained are to be considered in light of the following key criteria:

- Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value (considering the time value of money)
- Diversification – setting limits to the amounts invested with a particular financial institution or government authority to reduce credit risk
- Credit Risk – the risk that a council has invested in fails to pay the interest and or repay the principal of an investment
- Market Risk - the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices
- Rollover/Reinvestment Risk - the risk that income will not meet expectations or budgeted requirement because interest rates are lower than expected in future
- Liquidity Risk - the risk an investor is unable to redeem the investment at fair price within a timely period; and
- Maturity Risk - the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities.

## 1.7 Investment Advisor

The Council's investment advisor must be approved by Council and licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in relation to investment products being recommended and is free to choose the most appropriate product within the terms and conditions of the investment policy.

The independent advisor is required to provide written confirmation promptly that they do not have any actual or potential conflicts of interest in relation to the investments they are recommending or reviewing, including that they are not receiving any commissions or other





benefits in relation to the investments being recommended or reviewed, except as fully rebated to Council.

## 2 Investment Guidelines

Investments are to comply with three key criteria relating to:

- (1) Portfolio Credit Framework: - limit overall credit exposure of the portfolio
- (2) Counterparty/Institution Credit Framework: -limit exposure to individual institutions based on their credit ratings, and
- (3) Term to Maturity Framework: - limits based upon maturity of securities

### 2.1 Portfolio Credit Framework

The portfolio credit guidelines to be adopted will be based on the Standard & Poor's (S&P) ratings system criteria. The maximum available limits in each rating category are as follows:

OVERALL PORTFOLIO CREDIT LIMITS		
Long Term Credit Ratings	Maximum percentage of portfolio	Definition
AAA Category	100%	Extremely strong capacity to pay
AA Category or Major Bank <sup>^</sup>	100%	Extremely strong capacity to pay
A Category	80%	Strong capacity to pay
BBB Category	70%	Adequate capacity to pay
Unrated Category	20%	Unrated eg building societies, credit unions including local branches (all are ADIs regulated by APRA)

For the purpose of this Policy, Major Banks are currently defined as the ADI deposits or senior guaranteed principal and interest ADI securities issued by the major Australian banking groups.

- Australia and New Zealand Banking Group Limited (ANZ)
  - Commonwealth Bank of Australia (CBA)
  - National Australia Bank Limited (NAB)
  - Westpac Banking Corporation (WBC)
- including ADI subsidiaries whether or not explicitly guaranteed, and brands (such as St George).

Council may ratify an alternative definition from time to time.



- S&P ratings attributed to each individual institution will be used to determine maximum holdings. If the ADI is not rated by S&P i.e. by Moody's or Fitch, Council will apply the S&P equivalent rating

## 2.2 Counterparty/Institution Credit Framework

Exposure to individual counterparties/financial institutions will be restricted by their S&P rating so that single entity exposure is limited, as detailed in the table below:

INDIVIDUAL INSTITUTION LIMITS		
Long Term Credit Ratings	Maximum percentage of total investments with any one institution	Definition
AAA Category	60%	Extremely strong capacity to pay
AA Category or Major Bank <sup>^</sup>	50%	Extremely strong capacity to pay
A Category	40%	Strong capacity to pay
BBB Category	35%	Adequate capacity to pay
Unrated Category	10%	Unrated eg building societies, credit unions including local branches (all are ADIs regulated by APRA)

## 2.3 Term to Maturity Framework

The investment portfolio is to be invested within the following terms to maturity constraints:

OVERALL PORTFOLIO TERM TO MATURITY LIMITS		
	Minimum	Maximum
Portfolio % <3 months	10%	100%
Portfolio % >3 months <1 year	0%	100%
Portfolio % >1 year <2 years	0%	70%
Portfolio % >2 years <5 years	0%	50%



Portfolio % >5 years	0%	0%
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This will be the maximum investment term or WAL (weighted average life) for mortgage and asset-backed securities

### 3 Performance Benchmarks

Performance benchmarks needs to be established and should be based on sound and consistent methodology.

Investment	Performance Benchmark
Cash	RBA Cash Rate
Fund/ Direct Investments	AusBond Bank Bill Index

### 4 Quotations on New Investments

Not less than three (3) quotations shall be obtained from authorised institutions when a new direct investment is proposed. Investments may be 'rolled over' with the current holder of the investment within the guidelines set out above.

### 5 Environmentally and Socially Responsible Investments (SRI)

Where financial institutions are offering equivalent investment returns with a similar credit rating, and the investment fits within the provisions of this Investment Policy, preference will be given to placing funds with institutions identified as being socially, ethically and environmentally responsible.

Without compromising the risk and return profile of the investment portfolio, Council gives preference to Socially Responsible Investments (SRI) which can transparently demonstrate:

- o the rate of return on investment is greater than or equal to the rates of other Authorised Deposit-Taking Institutions which comply with Council's Investment Policy and are available at the time
- o the avoidance of funding fossil fuel in the investment product
- o that the financial institution and product are otherwise compliant with Council's policy.

SRI status may be in respect of the individual investment product, the issuer of the investment, or both and should be endorsed by an accredited environmentally and socially responsible industry body or institution.



The criteria for SRI are all preferred and not mandatory requirements.

Council's criteria for an SRI are those which direct investment towards the socially and/or environmentally productive activities listed below.

Environmentally productive activities are considered to be:

- o resource efficiency-especially water and energy
- o renewable energy
- o production of environmentally friendly products recycling, and waste and emissions reduction

Socially productive activities are considered to be:

- o fair trade and provision of a living wage
- o human health and aged care
- o equal opportunity employers, and those that support the values of communities, indigenous peoples and minorities
- o provision of housing, especially affordable housing

Council will also look to avoid investment in socially and/or environmentally harmful activities.

Environmentally harmful activities are considered to be:

- o production of pollutants, toxins and greenhouse gases (either in Australia or abroad)
- o habitat destruction, especially destruction of forests and marine eco-systems.
- o nuclear power
- o uranium mining

Socially harmful activities are considered to be:

- o abuse of Human Rights and Labour Rights
- o involvement in bribery/corruption
- o production or supply of armaments
- o manufacture of alcohol, tobacco or gambling products

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- o renewable energy
- o production of environmentally friendly products recycling, and waste and emissions reduction

Socially productive activities are considered to be:



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Socially harmful activities are considered to be:

- o abuse of Human Rights and Labour Rights
- o involvement in bribery/corruption
- o production or supply of armaments
- o manufacture of alcohol, tobacco or gambling products

## 6 Reporting and Reviewing Investments

Documentary evidence must be held for each investment and details thereof maintained in an Investment Register.

The documentary evidence must provide Council legal title to the investment.

Certificates must be obtained from the financial institutions confirming the amounts of investments held on the Council's behalf as at 30 June each year and reconciled to the Investment Register.

All investments are to be appropriately recorded in Council's financial records and reconciled at least on a monthly basis.

A monthly report will be provided to Council. The report will detail the investment portfolio in terms of performance, percentage exposure of total portfolio, maturity date and changes in market value.

This Investment Policy will be reviewed at least once a council term or as required in the event of legislative changes. The Investment Policy may also be changed as a result of other



amendments that are to the advantage of the Council and in the spirit of this policy. Any amendment to the Investment Policy must be by way of Council resolution.

### **Non Compliance**

Non-compliance with adopted policy may be considered a breach under the Code of Conduct. As such, any suspected or known non-compliance will be reported to the CEO.



<b>Policy number</b>	<b>4.10</b>
Responsible area	Corporate Services
Approved by	
Approval date	
Legislation or related strategy	Local Government Act 1993 Local Government (General) Regulation 2021 Ministerial Investment Order Local Government Code of Accounting Practice and Financial Reporting Australian Accounting Standards
Documents associated with this policy	
Policy history	Vers 3 22 Feb 2017 Res 17/15 (previous 1.23) Vers 2 22 Jun 2016 Res 16/84 Vers 1 24 Apr 2013 Res 13/39 Original 27 Apr 2011 Res 11/39
Review schedule	Insert number of years

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

## END OF POLICY STATEMENT

Version 4

Last revised date 11/11/2022

Page 12 of 12

Next scheduled review 2026

## R3 Code of Conduct Policy and Procedure for Administration of the Code of Conduct

### Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** Following a period of public consultation, the Code of Conduct policy 1.01 is presented to the Board for adoption. Also presented is the Procedure for Administration of the Code of Conduct which supports administration of the Code of Conduct.

### RECOMMENDATION that Council:

- a) Note that the Code of Conduct was placed on public exhibition for a period of 28 days with no submissions received, and
- b) Adopts the Code of Conduct Policy 1.01 and the Procedure for Administration of the Code of Conduct.

### Report

The Code of Conduct Policy 1.01 was reviewed at the 26 October 2022 Board meeting, and as required by legislation, placed on public exhibition for submissions. There were no submissions received during the exhibition period.

The Riverina Water Code of Conduct Policy 1.01 and the Procedure for the Administration of the Code of Conduct are now presented to the Board for adoption. These will be made available on Riverina Water's website and on the intranet for all staff. Regular training is conducted with staff on the Code of Conduct as well as included in staff inductions, to ensure all are aware of their responsibilities under the Code.

› **R3.1 Code of Conduct Policy 1.1 .docx** [↓](#) 

› **R3.2 Procedures for the Administration of the Code of Conduct.docx** [↓](#) 

### Financial Implications

Not applicable.



**Risk Considerations**

<b>Corporate Governance And Compliance</b>	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



# Code of Conduct

October 2022 | Policy 1.01

# Contents

<b>Part 1 Introduction.....</b>	<b>5</b>
<b>Part 2 Definitions .....</b>	<b>6</b>
<b>Part 3 General Conduct Obligations .....</b>	<b>8</b>
General Conduct .....	8
Fairness and equity .....	8
Harassment and discrimination .....	8
Bullying .....	9
Work health and safety .....	9
Land use planning, development assessment and other regulatory functions .....	10
Binding caucus votes .....	10
Obligations in relation to meetings .....	11
<b>Part 4 Pecuniary interests .....</b>	<b>12</b>
What is a pecuniary interest? .....	12
What interests do not have to be disclosed? .....	13
What disclosures must be made by a designated person? .....	14
What disclosures must be made by council staff other than designated persons? .....	15
What disclosures must be made by council advisers? .....	15
What disclosures must be made by a council committee member? .....	16
What disclosures must be made by a Board member? .....	16
Disclosure of interests in written returns .....	16
Disclosure of pecuniary interests at meetings .....	17
<b>Part 5 Non-pecuniary conflicts of interest.....</b>	<b>20</b>
What is a non-pecuniary conflict of interest? .....	20
Managing non-pecuniary conflicts of interest .....	20
Political donations .....	22
Loss of quorum as a result of compliance with this Part .....	23
Other business or employment .....	24
Personal dealings with council .....	24
<b>Part 6 Personal benefit.....</b>	<b>25</b>

Gifts and benefits .....	25
How are offers of gifts and benefits to be dealt with? .....	25
Gifts and benefits of token value .....	26
Gifts and benefits of more than token value .....	27
"Cash-like gifts" .....	27
Improper and undue influence .....	27
<b>Part 7 Relationships between council officials .....</b>	<b>28</b>
Obligations of members and administrators.....	28
Obligations of staff .....	28
Inappropriate interactions .....	29
<b>Part 8 Access to information and council resources.....</b>	<b>31</b>
Board member and administrator access to information .....	31
Board members and administrators to properly examine and consider information .....	31
Refusal of access to information .....	32
Use of certain council information .....	32
Use and security of confidential information .....	32
Personal information .....	33
Use of council resources .....	33
Internet access .....	34
Council record keeping .....	34
Councillor access to council buildings .....	34
<b>Part 9 Maintaining the integrity of this Code .....</b>	<b>36</b>
Complaints made for an improper purpose.....	36
Detrimental action .....	36
Compliance with requirements under the Procedures .....	37
Disclosure of information about the consideration of a matter under the Procedures .....	37
Complaints alleging a breach of this Part.....	37
<b>Schedule 1: Disclosures of interest and other matters in written returns submitted under Clause 4.21 .....</b>	<b>38</b>
Part 1: Preliminary .....	38
Definitions .....	38
Matters relating to the interests that must be included in returns .....	40

Part 2: Pecuniary interests to be disclosed in returns .....	41
Real property .....	41
Gifts .....	41
Contributions to travel .....	42
Interests and positions in corporations.....	42
Interests as a property developer or a close associate of a property developer .....	43
Positions in trade unions and professional or business associations .....	43
Dispositions of real property .....	43
Sources of income.....	44
Debts.....	45
Discretionary disclosures.....	45
<b>Schedule 2: Form of written return of interests submitted under Clause 4.21 .....</b>	<b>46</b>
'Disclosures by members and designated persons' return .....	46
Disclosure of pecuniary interests and other matters.....	47
<b>Schedule 3: Form of Special Disclosure of pecuniary interest submitted under Clause 4.37 ...</b>	<b>50</b>
<b>Policy details .....</b>	<b>53</b>

## Part 1 Introduction

The Riverina Water Code of Conduct is made under section 440 of the Local Government Act 1993 ("LGA") and the *Local Government (General) Regulation 2021* ("the Regulation").

The Code of Conduct (the Code) sets the minimum standards of conduct for Riverina Water council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted Code of Conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted Code of Conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted Code of Conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Board members, administrators, Riverina Water staff, delegates of council, (including members of council committees that are delegates of a council) and any other person Riverina Water's adopted Code of Conduct applies to, must comply with the applicable provisions of the Code. It is the personal responsibility of council officials to comply with the standards in the Code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a Board member to comply with the standards of conduct prescribed under this Code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on Board members for misconduct, including suspension or disqualification from civic office. A Board member who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with Riverina Water's Code of Conduct may give rise to disciplinary action.

## Part 2 Definitions

In this Code the following terms have the following meanings:

LGA	the Local Government Act
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
chairperson	includes the chairperson of a county council or a joint organisation
committee	see the definition of "council committee"
complaint	a Code of Conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures
council	includes country council and joint organisations
council committee	a committee established by a council comprising of Board members, staff or other persons that the council has delegated functions to and the council's Audit, Risk and Improvement Committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's Audit, Risk and Improvement Committee
council official	includes Board members, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns

environmental planning instrument	has the same meaning as it has in the Environmental Planning and Assessment Act 1979
general manager	includes the executive of a joint organisation (at Riverina Water referred to as the CEO)
joint organisation	a joint organisation established under section 400O of the LGA
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
member (councillor)	any person appointed to civic office, including the chairperson and includes Board members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
members of staff of a council	includes members of staff of country councils and joint organisations
the Office	Office of Local Government
personal information	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
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2021
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to



## Part 3 General Conduct Obligations

### General Conduct

3.1 You must not conduct yourself in a manner that:

- a) is likely to bring Riverina Water or other council officials into disrepute
- b) is contrary to statutory requirements or the council's administrative requirements or policies
- c) is improper or unethical
- d) is an abuse of power
- e) causes, comprises or involves intimidation or verbal abuse
- f) involves the misuse of your position to obtain a private benefit
- g) constitutes harassment or bullying behaviour under this Code, or is unlawfully discriminatory.

3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (section 439).

### Fairness and equity

3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

### Harassment and discrimination

3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identify or intersex status, or political, religious or other affiliation.

3.7 For the purposes of this Code, "harassment" is any form of behaviour towards a person that:

- a) is not wanted by the person
- b) offends, humiliates or intimidates the person, and
- c) creates a hostile environment.

## Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this Code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments
  - c) spreading malicious rumours
  - d) teasing, practical jokes or 'initiation ceremonies'
  - e) exclusion from work-related events
  - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
  - g) displaying offensive material
  - h) pressure to behave in an inappropriate manner.
- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this Code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

## Work health and safety

- 3.12 All council officials, including Board members, owe statutory duties under the Work Health and Safety Act 2011 (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
  - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons

- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the CEO or such other staff member nominated by the CEO, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

## **Land use planning, development assessment and other regulatory functions**

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

## **Binding caucus votes**

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a board or committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of members are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Board or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the Board or committee.
- 3.17 Clause 3.15 does not prohibit members from discussing a matter before the Board or committee prior to considering the matter in question at a board or committee meeting, or from voluntarily holding a shared view with other members on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the chairperson or deputy chairperson, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

## Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at board and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during board or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts board or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a Board member, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the Board, or of a committee of the council. Without limiting this clause, you must not:
  - a) leave a meeting of the Board or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another member from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

## Part 4 Pecuniary interests

### What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

## What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

- (a) your interest as an elector
- (b) your interest as a ratepayer or person liable to pay a charge
- (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Code
- (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Code
- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
- (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
  - ii) security for damage to footpaths or roads

- iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to Board members (including the chairperson and deputy chairperson)
- (k) an interest relating to the payment of expenses and the provision of facilities to Board members (including the chairperson and deputy chairperson) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of chairperson arising from the fact that a fee for the following 12 months has been determined for the office of chairperson
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Board member or a council committee member
- (o) an interest arising from the appointment of a Board member to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

## **What disclosures must be made by a designated person?**

4.8 Designated persons include:

- (a) the CEO
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a Board member or the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a Board member or the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.10.
- 4.10 A designated person must disclose in writing to the CEO (or if the person is the CEO, to the Board) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 4.12 The CEO must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 4.13 A disclosure by the CEO must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Board and the Board must deal with the matter to which the disclosure relates or refer it to another person to deal with.

### **What disclosures must be made by council staff other than designated persons?**

- 4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the CEO the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 4.15 The staff member's manager or the CEO must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

### **What disclosures must be made by council advisers?**

- 4.16 A person who, at the request or with the consent of the Board or a council committee, gives advice on any matter at any meeting of the Board or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.
- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.



## **What disclosures must be made by a council committee member?**

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

## **What disclosures must be made by a Board member?**

- 4.20 A Board member:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

## **Disclosure of interests in written returns**

- 4.21 A Board member or designated person must make and lodge with the CEO a return in the form set out in Schedule 2 to this Code, disclosing the Board member's or designated person's interests as specified in Schedule 1 to this Code within 3 months after:
- (a) becoming a Board member or designated person, and
  - (b) 30 June of each year, and
  - (c) the Board member or designated person becoming aware of an interest they are required to disclose under Schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
  - (b) they have ceased to be a Board member or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The CEO must keep a register of returns required to be made and lodged with the CEO.

- 4.25 Returns required to be lodged with the CEO under clause 4.21 (a) and (b) must be tabled at the first meeting of the Board after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the CEO under clause 4.21 (c) must be tabled at the next Board meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

## **Disclosure of pecuniary interests at meetings**

- 4.28 A Board member or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the Board or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The Board member or council committee member must not be present at, or in sight of, the meeting of the Board or committee:
  - (a) at any time during which the matter is being considered or discussed by the Board or committee, or
  - (b) at any time during which the Board or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a board or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the CEO in writing by a Board member or a council committee member to the effect that the Board member or council committee member, or the Board member's or council committee member's spouse, de facto partner or relative, is:
  - a) a member of, or in the employment of, a specified company or other body, or
  - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the Board in which it is given (whichever is the sooner), sufficient disclosure of the Board member's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Board or council committee after the date of the notice.

- 4.33 A Board member or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Board member or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a member who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a member who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - (b) the pecuniary interest arises only because of an interest of the member in the member's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - (c) the member made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - (b) be laid on the table at a meeting of the baord as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a Board member or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the Board or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of members prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or

(b) that it is in the interests of the electors for the area to do so.

- 4.39 A Board member or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the Board or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

## Part 5 Non-pecuniary conflicts of interest

### What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this Code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

### Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the CEO, such a disclosure is to be made to the staff member's manager. In the case of the CEO, such a disclosure is to be made to the chairperson.
- 5.7 If a disclosure is made at a board or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.

5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:

- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
- d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
- e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
- f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you

must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

- 5.12 If you are a member of staff of council other than the CEO, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the CEO, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the chairperson.
- 5.13 Despite clause 5.10(b), a member who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

## Political donations

- 5.15 Members should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a Board member and have received or knowingly benefitted from a reportable political donation:
  - a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,

you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
  - a) a "reportable political donation" has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
  - b) "major political donor" has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Members should note that political donations that are not a "reportable political donation", or political donations to a registered political party or group by which a member is endorsed, may still give rise to a non-pecuniary conflict of interest. Board

members should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

- 5.19 Despite clause 5.16, a Board member who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

## **Loss of quorum as a result of compliance with this Part**

- 5.20 A Board member who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
    - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
  - c) the Board member discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.
- 5.21 The Minister for Local Government may, conditionally or unconditionally, allow a Board member or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the Board or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of members prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - b) that it is in the interests of the electors for the area to do so.
- 5.22 Where the Minister exempts a Board member or committee member from complying with a requirement under this Part under clause 5.21, the member or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.



## Other business or employment

- 5.23 The CEO must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the Board.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the CEO in writing of the employment, work or business and the CEO has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The CEO may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
  - a) conflict with their official duties
  - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
  - c) require them to work while on council duty
  - d) discredit or disadvantage Riverina Water
  - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

## Personal dealings with council

- 5.28 You may have reason to deal with Riverina Water in your personal capacity (for example, as a customer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with Riverina Water in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this Code.

## Part 6 Personal benefit

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
  - b) a political donation for the purposes of the *Electoral Funding Act 2018*
  - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - d) a benefit or facility provided by the council to employee or Board member
  - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
  - f) free or subsidised meals, beverages or refreshments of token value provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
    - i. the discussion of official business
    - ii. work-related events such as council-sponsored or community events, training, education sessions or workshops
    - iii. conferences
    - iv. council functions or events
    - v. social functions organised by groups, such as council committees and community organisations.

### Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

### How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement

- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer-supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the CEO in writing. The recipient, manager, or CEO must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

## **Gifts and benefits of token value**

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- b) gifts of alcohol that do not exceed a value of \$100
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$100 in value.

## Gifts and benefits of more than token value

- 6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.
- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

## “Cash-like gifts”

- 6.13 For the purposes of clause 6.5(e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

## Improper and undue influence

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A member will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with Riverina Water, or of functions you perform for Riverina Water, in order to obtain a private benefit for yourself or for any other person or body.

## Part 7 Relationships between council officials

### Obligations of members and administrators

- 7.1 Each council is a body politic. The Board members or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Board members or administrators must not:
- a) direct council staff other than by giving appropriate direction to the CEO by way of Board or committee resolution, or by the chairperson or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of Riverina Water on council-related business unless in accordance with the policy and procedures governing the interaction of Board members and council staff that have been authorised by the Board and the CEO
  - d) contact or issue instructions to any of Riverina Water's contractors, including the council's legal advisers, unless by the chairperson or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, Board members may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

### Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the CEO includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the Board and ensuring that the chairperson and other Board members are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of Riverina Water must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out ethically, efficiently, economically and effectively

- c) carry out reasonable and lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies and procedures of the Board whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of Riverina Water does not interfere with the performance of their official duties.

## Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- a) Board members and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching Board members and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other Board members to a particular Board member
- d) Board members and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) Board members and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the member has a right to be heard by the panel at the meeting
- f) Board members and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to Board members or administrators
- h) Board members and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this Code in public forums including social media
- i) Board members and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to Board members and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals

- I) Board members attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's CEO or, in the case of the chairperson or administrator, unless they are exercising their functions under section 226 of the LGA.

## Part 8 Access to information and council resources

### Board member and administrator access to information

- 8.1 The CEO is responsible for ensuring that Board members and administrators can access information necessary for the performance of their official functions. The CEO and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The CEO must provide Board members and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of Riverina Water must provide full and timely information to Board members and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of Riverina Water who provide any information to a particular Board member in the performance of their official functions must also make it available to any other Board member who requests it and in accordance with council procedures.
- 8.5 Board members and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, Board members and administrators who are precluded from participating in the consideration of a matter under this Code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

### Board members and administrators to properly examine and consider information

- 8.7 Board members and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.



## Refusal of access to information

- 8.8 Where the CEO or public officer determine to refuse access to information requested by a Board member or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the Board member or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The CEO or public officer must state the reasons for the decision if access is refused.

## Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
  - b) not use that council information for private purposes
  - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with Riverina Water
  - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

## Use and security of confidential information

- 8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
  - b) protect confidential information
  - c) only release confidential information if you have authority to do so
  - d) only use confidential information for the purpose for which it is intended to be used
  - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
  - f) not use confidential information with the intention to cause harm or detriment to Riverina water or any other person or body

- g) not disclose any confidential information discussed during a confidential session of a Board or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

## Personal information

8.12 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) Riverina Water's Privacy Management Plan
- e) the Privacy Code of Practice for Local Government

## Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and Consultative Committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:

- a) for the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

8.19 You must not convert any property of the council to your own use unless properly authorised.

## Internet access

8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the Riverina Water's reputation.

## Council record keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and Riverina Water's records management policy.
- 8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and Riverina Water's approved records management policies and practices.
- 8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the appropriate officer in Corporate Services and comply with the requirements of the *State Records Act 1998*.

## Councillor access to council buildings

- 8.25 Board members and administrators are entitled to have access to the board room, committee room, bathroom facilities and public areas of Riverina Water's buildings during normal business hours and for meetings. Board Members and administrators needing access to these facilities at other times must obtain authority from the CEO.
- 8.26 Board members and administrators must not enter staff-only areas of council buildings without the approval of the CEO (or their delegate) or as provided for in the procedures governing the interaction of Board members and council staff.

- 8.27 Board members and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

## Part 9 Maintaining the integrity of this Code

### Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this Code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this Code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this Code under the Procedures.

### Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this Code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

## Disclosure of information about the consideration of a matter under the Procedures

- 9.9 All allegations of breaches of this Code must be dealt with under and in accordance with the Procedures.
- 9.10 You must not allege breaches of this Code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this Code at Board, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this Code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

## Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a Board member, the CEO or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.16 Complaints alleging a breach of this Part by other council officials are to be managed by the CEO in accordance with the Procedures.

# Schedule 1: Disclosures of interest and other matters in written returns submitted under Clause 4.21

## Part 1: Preliminary

### Definitions

1. For the purposes of the schedules to this Code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the Board member or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the Interpretation Act 1987.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made

to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth.

*occupation* includes trade, profession and vocation.

*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21 (a), the date on which a person became a member or designated person
- b) in the case of a return made under clause 4.21 (b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21 (c), the date on which the member or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.



## Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a member or designated person has an interest includes a reference to any real property situated in Australia in which the member or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a member or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

## Part 2: Pecuniary interests to be disclosed in returns

### Real property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a member or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

### Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a member or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

## Contributions to travel

12. A person making a return under clause 4.21 of this Code must disclose:
- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a member or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

## Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:

- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a member or designated person.

### **Interests as a property developer or a close associate of a property developer**

19. A person making a return under clause 4.21 of this Code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this schedule:  
*close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.  
*property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

### **Positions in trade unions and professional or business associations**

21. A person making a return under clause 4.21 of the Code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a member or designated person.

### **Dispositions of real property**

23. A person making a return under clause 4.21 of this Code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

24. A person making a return under clause 4.21 of this Code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a member or designated person.

## Sources of income

26. A person making a return under clause 4.21 of this Code must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - b) each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
    - (i) a description of the occupation, and
    - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
  - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a Board member or designated person need not be disclosed.
30. A fee paid to a Board member or to the chairperson or deputy chairperson under sections 248 or 249 of the LGA need not be disclosed.

## Debts

31. A person making a return under clause 4.21 of this Code must disclose the name and address of each person to whom the person was liable to pay any debt:
- on the return date, and
  - at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - the amounts to be paid exceeded, in the aggregate, \$500, or
  - the person was liable to pay the debt to a relative, or
  - in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
  - in the case of a debt arising from the supply of goods or services:
    - the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
    - the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
  - subject to paragraph (a), the debt was discharged prior to the person becoming a Board member or designated person.

## Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

## Schedule 2: Form of written return of interests submitted under Clause 4.21

### ‘Disclosures by members and designated persons’ return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the CEO after becoming a Board member or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a Board member or designated person.
3. If you have previously lodged a return with the CEO and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the CEO, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a Board member or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the CEO and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word “NIL” is to be placed in an appropriate space under that heading.

#### Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about

breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the CEO in a register of returns. The CEO is required to table all returns at a board meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

## **Disclosure of pecuniary interests and other matters**\_by [full name of member or designated person]

as at [return date]

in respect of the period from [date] to [date]

[member's or designated person's signature]

[date]

### **A. Real Property**

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest

### **B. Sources of income**

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership



conducted (if  
applicable)

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor

Name and address of trustee

3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

*[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]*

### C. Gifts

Description of each gift I received at any time since 30 June

### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken

### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation

(except in case of  
listed company)

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**F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)**

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**G. Positions in trade unions and professional or business associations**

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Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position

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**H. Debts**

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Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

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**I. Dispositions of property**

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1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

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2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

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**J. Discretionary disclosures**

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## Schedule 3: Form of Special Disclosure of pecuniary interest submitted under Clause 4.37

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

### Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Riverina Water Code of Conduct.

The special disclosure must relate only to a pecuniary interest that a member has in the member's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Riverina Water Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Riverina Water Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Riverina Water Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the board or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by [full name of member]

in the matter of [insert name of environmental planning instrument]

which is to be considered at a meeting of the [name of board or council committee (as the case requires)]

to be held on the      day of      20      .

Pecuniary interest	
Address of the affected principal place of residence of the member or an associated person, company or body (the identified land)	
Relationship of identified land to the member [Tick or cross one box]	<input type="checkbox"/> The member has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise).  <input type="checkbox"/> An associated person of the member has an interest in the land.  <input type="checkbox"/> An associated company or body of the member has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> [Tick or cross one box]	<input type="checkbox"/> The identified land.  <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.

<sup>1</sup> Clause 4.1 of the Riverina Water Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Code of Conduct.

<sup>2</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Riverina Water Code of Conduct has a proprietary interest.

Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on member or associated person [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Board member's signature

Date

[This form is to be retained by the council's CEO and included in full in the minutes of the meeting]

## Policy details

Policy number	Policy 1.01
Responsible area	CEO
Approved by	Riverina Water Board – Resolution No 20/115
Approval date	28 October 2020
Legislation or related strategy	Local Government Act 1993 Local Government (General) Regulation 2021 Model Code of Conduct 2018 Procedures for the Administration of the Code of Conduct 2018
Documents associated with this policy	Policy 1.6 Conflict of Interest Policy 1.3 Good Governance Policy 1.14 Fraud & Corruption Prevention Policy 1.28 Related Parties Disclosure Gifts & Benefits Procedure GC.001
Policy history	Code of Conduct 28 Oct 2020 Res 20/115 Code of Conduct 2019 Res 19/87 Code of Conduct 2017 Res 17/135

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

# **Model Code Procedures for the administration of the Riverina Water Code of Conduct Policy 1.01**

**2022**

## TABLE OF CONTENTS

PART 1	Introduction .....	3
PART 2	Definitions.....	3
PART 3	Administrative Framework.....	5
PART 4	How may Code of Conduct complaints be made? .....	7
PART 5	How are Code of Conduct complaints to be managed?.....	8
PART 6	Preliminary assessment of Code of Conduct complaints about Board members of the CEO by conduct reviewers.....	14
PART 7	Investigations of Code of Conduct complaints about Board members or the CEO .....	18
PART 8	Oversight and rights of review .....	24
PART 9	Procedural Irregularities.....	26
PART 10	Practice Directions.....	26
PART 11	Reporting statistics on Code of Conduct complaints about Board members and the CEO.....	27
PART 12	Confidentiality .....	27



## PART 1 Introduction

These Procedures ("the Model Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the LGA") and the *Local Government (General) Regulation 2021* ("the Regulation"). Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

**Note:** References in these Procedures to councils are also to be taken as references to county councils and joint organisations.

**Note:** Parts 6, 7, 8 and 11 of these Procedures apply only to the management of code of conduct complaints about Board members (including the Chairperson) or the CEO.

## PART 2 Definitions

In these Procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant board member	a Board member who makes a code of conduct complaint
complaints coordinator	a person appointed by the CEO under these Procedures as a complaints coordinator
conduct reviewer	a person appointed under these Procedures to review allegations of breaches of the Code of Conduct by Board members or the CEO
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of Board members, staff or other persons that the council has delegated

	functions to and the council's audit, risk and improvement committee
council committee member	a person other than a Board member or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a Board member who is a member of the council's audit, risk and improvement committee
councillor (Board member)	any person elected or appointed to civic office, including the mayor, and includes members and Chairpersons of county councils
council official	any Board member, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a Board member or member of staff of council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager (CEO)	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 400O of the LGA
LGA	the <i>Local Government Act 1993</i>
mayor	includes the Chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these Procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

## PART 3 Administrative Framework

### The establishment of a panel of conduct reviewers

- 3.1 The council must establish a panel of conduct reviewers.
- 3.2 The council may enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
  - a) an understanding of local government, and
  - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
  - c) knowledge and experience of one or more of the following:
    - i) investigations
    - ii) law
    - iii) public administration
    - iv) public sector ethics
    - v) alternative dispute resolution, and
  - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
  - a) a councillor, or
  - b) a nominee for election as a councillor, or
  - c) an administrator, or
  - d) an employee of a council, or
  - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
  - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these Procedures prior to the termination of the panel until they have finalised their consideration of the matter.

- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

#### The appointment of an internal ombudsman to a panel of conduct reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

#### The appointment of a complaints coordinator

- 3.17 The CEO must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The CEO may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The CEO must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's Code of Conduct
  - b) liaise with and provide administrative support to a conduct reviewer
  - c) liaise with the Office, and
  - d) arrange the annual reporting of code of conduct complaints statistics.

## **PART 4      How may Code of Conduct complaints be made?**

### What is a Code of Conduct complaint?

- 4.1 For the purpose of these Procedures, a Code of Conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's Code of Conduct if proven.
- 4.2 The following are not "Code of Conduct complaints" for the purposes of these Procedures:
  - a) complaints about the standard or level of service provided by the council or a council official
  - b) complaints that relate solely to the merits of a decision made by the Board or a council official or the exercise of a discretion by the Board or a council official
  - c) complaints about the policies or procedures of the council
  - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's Code of Conduct.
- 4.3 Only Code of Conduct complaints are to be dealt with under these Procedures. Complaints that do not satisfy the definition of a Code of Conduct complaint are to be dealt with under the council's routine complaints management processes.

### When must a Code of Conduct complaint be made?

- 4.4 A Code of Conduct complaint must be made within 3 months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the CEO or their delegate, or, in the case of a complaint about the CEO, the Chairperson or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the Code of Conduct.

### How may a Code of Conduct complaint about a council official other than the CEO be made?

- 4.6 All Code of Conduct complaints other than those relating to the CEO are to be made to the CEO in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a Code of Conduct complaint about a council official other than the CEO cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a Code of Conduct complaint about a council official other than the CEO, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The CEO or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the CEO becomes aware of a possible breach of the council's Code of Conduct, they may initiate the process for the consideration of the matter under these Procedures without a written complaint.

### How may a Code of Conduct complaint about the CEO be made?

- 4.11 Code of Conduct complaints about the CEO are to be made to the Chairperson in writing. This clause does not operate to prevent a person from making a complaint about the CEO to an external agency.
- 4.12 Where a Code of Conduct complaint about the CEO cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a Code of Conduct complaint about the CEO, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The Chairperson or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the Chairperson becomes aware of a possible breach of the council's Code of Conduct by the CEO, they may initiate the process for the consideration of the matter under these Procedures without a written complaint.

## **PART 5      How are Code of Conduct complaints to be managed?**

### Delegation by CEO and Chairperson of their functions under this Part

- 5.1 The CEO or Chairperson may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the CEO or Chairperson are also to be taken to be references to their delegates.

### Consideration of complaints by CEOs and Chairpersons

- 5.2 In exercising their functions under this Part, the CEO and Chairperson may consider the complaint assessment criteria prescribed under clause 6.31.

### What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the CEO or, in the case of a complaint about the CEO, the Chairperson, may decline to deal with a complaint under these Procedures where they are satisfied that the complaint:
  - a) is not a Code of Conduct complaint, or
  - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
  - c) is trivial, frivolous, vexatious or not made in good faith, or
  - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
  - e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's Code of Conduct to be readily identified.

How are Code of Conduct complaints about staff (other than the CEO) to be dealt with?

- 5.4 The CEO is responsible for the management of Code of Conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct) and for determining the outcome of such complaints.
- 5.5 The CEO must refer Code of Conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct to the Office.
- 5.6 The CEO may decide to take no action in relation to a Code of Conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the CEO decides to take no action in relation to a Code of Conduct complaint about a member of staff of council, the CEO must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these Procedures.
- 5.8 Code of Conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the Code of Conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are Code of Conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The CEO is responsible for the management of Code of Conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct) and for determining the outcome of such complaints.
- 5.11 The CEO must refer Code of Conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct to the Office.
- 5.12 The CEO may decide to take no action in relation to a Code of Conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the CEO decides to take no action in relation to a Code of Conduct complaint about a delegate of council or a council committee member, the CEO must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these Procedures.
- 5.14 Where the CEO considers it to be practicable and appropriate to do so, the CEO may seek to resolve Code of Conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a Code of Conduct complaint under this

clause is not to be taken as a determination that there has been a breach of the council's Code of Conduct.

- 5.15 Where the CEO resolves a Code of Conduct complaint under clause 5.14 to the CEO's satisfaction, the CEO must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the Code of Conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure
  - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the CEO
  - c) prosecution for any breach of the law
  - d) removing or restricting the person's delegation
  - e) removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the CEO or any person making enquiries on behalf of the CEO must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of the council's Code of Conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
  - b) the person must be given an opportunity to respond to the allegation, and
  - c) the CEO must consider the person's response in deciding whether to impose a sanction under clause 5.16.

#### How are Code of Conduct complaints about administrators to be dealt with?

- 5.18 The CEO must refer all Code of Conduct complaints about administrators to the Office for its consideration.
- 5.19 The CEO must notify the complainant of the referral of their complaint in writing.

#### How are Code of Conduct complaints about Board members to be dealt with?

- 5.20 The CEO must refer the following Code of Conduct complaints about Board members to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct
  - b) complaints alleging a failure to comply with a requirement under the Code of Conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
  - c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the Code of Conduct contained in Part 9 of the Code of Conduct
  - d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the CEO refers a complaint to the Office under clause 5.20, the CEO must notify the complainant of the referral in writing.



- 5.22 The CEO may decide to take no action in relation to a Code of Conduct complaint about a Board member, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the CEO decides to take no action in relation to a Code of Conduct complaint about a Board member, the CEO must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these Procedures.
- 5.24 Where the CEO considers it to be practicable and appropriate to do so, the CEO may seek to resolve Code of Conduct complaints about Board members, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a Code of Conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's Code of Conduct.
- 5.25 Where the CEO resolves a Code of Conduct complaint under clause 5.24 to the CEO's satisfaction, the CEO must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these Procedures.
- 5.26 The CEO must refer all Code of Conduct complaints about Board members, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

#### How are Code of Conduct complaints about the CEO to be dealt with?

- 5.27 The Chairperson must refer the following Code of Conduct complaints about the CEO to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the Code of Conduct
  - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the Code of Conduct contained in Part 9 of the Code of Conduct
  - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the Chairperson refers a complaint to the Office under clause 5.27, the Chairperson must notify the complainant of the referral in writing.
- 5.29 The Chairperson may decide to take no action in relation to a Code of Conduct complaint about the CEO, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the Chairperson decides to take no action in relation to a Code of Conduct complaint about the CEO, the Chairperson must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the Chairperson considers it to be practicable and appropriate to do so, the Chairperson may seek to resolve Code of Conduct complaints about the CEO, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of

a Code of Conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's Code of Conduct.

- 5.32 Where the Chairperson resolves a Code of Conduct complaint under clause 5.31 to the Chairperson's satisfaction, the Chairperson must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The Chairperson must refer all Code of Conduct complaints about the CEO, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

#### How are complaints about both the CEO and the Chairperson to be dealt with?

- 5.34 Where the CEO or Chairperson receives a Code of Conduct complaint that alleges a breach of the Code of Conduct by both the CEO and the Chairperson, the CEO or Chairperson must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the CEO where the allegation is not serious, or to a person external to the council, or
  - b) refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

#### Referral of Code of Conduct complaints to external agencies

- 5.35 The CEO, Chairperson or a conduct reviewer may, at any time, refer a Code of Conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The CEO, Chairperson or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the CEO, Chairperson or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these Procedures unless the council is subsequently advised otherwise by the referral agency.

#### Disclosure of the identity of complainants

- 5.39 In dealing with matters under these Procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
  - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
  - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
  - d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
  - e) it is otherwise in the public interest to do so.

- 5.40 Clause 5.39 does not apply to Code of Conduct complaints made by Board members about other Board members or the CEO.
- 5.41 Where a Board member makes a Code of Conduct complaint about another Board member or the CEO, and the complainant Board member considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant Board member under clause 5.41 must be made at the time they make a Code of Conduct complaint and must state the grounds upon which the request is made.
- 5.43 The CEO or Chairperson, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant Board member, but they are not obliged to comply with the request.
- 5.44 Where a complainant Board member makes a request under clause 5.41, the CEO or Chairperson or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the Board member in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

#### Code of Conduct complaints made as public interest disclosures

- 5.45 These Procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of Conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.46 Where a Board member makes a Code of Conduct complaint about another Board member or the CEO as a public interest disclosure, before the matter may be dealt with under these Procedures, the complainant Board member must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant Board member declines to consent to the disclosure of their identity as the complainant under clause 5.46, the CEO or the Chairperson must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

#### Special complaints management arrangements

- 5.48 The CEO may request in writing that the Office enter into a special complaints management arrangement with the council in relation to Code of Conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of Code of Conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its Code of Conduct, or
  - b) impeded or disrupted the effective administration by the council of its Code of Conduct, or
  - c) impeded or disrupted the effective functioning of the council.

- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a) the Code of Conduct complaints the arrangement relates to, and
  - b) the period that the arrangement will be in force.
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the Code of Conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these Procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a Code of Conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.
- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the CEO, review the arrangement to determine whether it should be renewed or amended.
- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

## **PART 6 Preliminary assessment of Code of Conduct complaints about Board members of the CEO by conduct reviewers**

### Referral of Code of Conduct complaints about Board members or the CEO to conduct reviewers

- 6.1 The complaints coordinator must refer all Code of Conduct complaints about Board members or the CEO that have not been referred to an external agency or declined or resolved by the CEO, Chairperson or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the CEO or the Chairperson.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
  - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these Procedures.
- 6.4 A conduct reviewer must not accept the referral of a Code of Conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or

- b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
  - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
  - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the Code of Conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these Procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
  - a) comply with these procedures in their consideration of the matter, or
  - b) comply with a lawful and reasonable request by the complaints coordinator, or
  - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of Code of Conduct complaints about Board members or the CEO by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:

- a) to take no action
  - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - c) to refer the matter back to the CEO or, in the case of a complaint about the CEO, the Chairperson, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
  - d) to refer the matter to an external agency
  - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a Code of Conduct complaint for the purposes of these Procedures.
- 6.19 The resolution of a Code of Conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's Code of Conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these Procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a Code of Conduct complaint for the purposes of these Procedures, and
  - b) that the alleged conduct is sufficiently serious to warrant the formal censure of a Board member under section 440G of the LGA or disciplinary action against the CEO under their contract of employment if it were to be proven, and
  - c) that the matter is one that could not or should not be resolved by alternative means.

- 6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a Board member under section 440G of the LGA or disciplinary action against the CEO under their contract of employment, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
  - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
  - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
  - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

#### Referral back to the CEO or Chairperson for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the CEO or to the Chairperson to be resolved by alternative and appropriate means, they must write to the CEO or, in the case of a complaint about the CEO, to the Chairperson, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the CEO or Chairperson prior to referring a matter back to them under clause 6.13(c).
- 6.28 The CEO or Chairperson may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the CEO or Chairperson under clause 6.13(c), the CEO or, in the case of a complaint about the CEO, the Chairperson, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the CEO or Chairperson under clause 6.13(c), the CEO, or, in the case of a complaint about the CEO, the Chairperson, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

#### Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a Code of Conduct complaint for the purpose of these Procedures

- b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's Code of Conduct
- c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
- d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the Code of Conduct
- e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
- f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
- g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i) any previous proven breaches of the council's Code of Conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

## **PART 7        Investigations of Code of Conduct complaints about Board members or the CEO**

### What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an "investigator") may investigate a Code of Conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the Code of Conduct that are not related to or do not arise from the Code of Conduct complaint that has been referred to them, they are to report the matters separately in writing to the CEO, or, in the case of alleged conduct on the part of the CEO, to the Chairperson.
- 7.3 The CEO or the Chairperson or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new Code of Conduct complaint in accordance with these procedures.

### How are investigations to be commenced?



- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
- a) disclose the substance of the allegations against the respondent, and
  - b) advise of the relevant provisions of the Code of Conduct that apply to the alleged conduct, and
  - c) advise of the process to be followed in investigating the matter, and
  - d) advise the respondent of the requirement to maintain confidentiality, and
  - e) invite the respondent to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice, and
  - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within a period of not less than 14 days specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the CEO, or in the case of a complaint about the CEO, to the complainant, the complaints coordinator and the Chairperson. The notice must:
- a) advise them of the matter the investigator is investigating, and
  - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
  - c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

#### Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.

- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

#### How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

#### Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - b) refer the matter to the CEO, or, in the case of a complaint about the CEO, to the Chairperson, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
  - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a Code of Conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's Code of Conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the CEO, or in the case of a complaint about

the CEO, to the respondent, the complainant, the complaints coordinator and the Chairperson discontinue their investigation of the matter.

- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these Procedures.

#### Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

#### Final investigation reports

- 7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these Procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
  - b) make a determination that the conduct investigated either,

- i. constitutes a breach of the Code of Conduct, or
- ii. does not constitute a breach of the Code of Conduct, and
- c) provide reasons for the determination.

7.36 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the respondent
- b) the relevant provisions of the Code of Conduct that apply to the alleged conduct investigated
- c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
- d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
- e) a description of any attempts made to resolve the matter by use of alternative means
- f) the steps taken to investigate the matter
- g) the facts of the matter
- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
- i) the investigator's determination and the reasons for that determination
- j) any recommendations.

7.37 Where the investigator determines that the conduct investigated constitutes a breach of the Code of Conduct, the investigator may recommend:

- a) in the case of a breach by the CEO, that disciplinary action be taken under the CEO's contract of employment for the breach, or
- b) in the case of a breach by a Board member, that the Board member be formally censured for the breach under section 440G of the LGA, or
- c) in the case of a breach by a Board member, that the Board resolves as follows:
  - i. that the Board member be formally censured for the breach under section 440G of the LGA, and
  - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.

7.39 Where the investigator has determined that there has been a breach of the Code of Conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.

7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the Code of Conduct, the investigator may recommend:

- a) that the council revise any of its policies, practices or procedures
- b) that a person or persons undertake any training or other education.

7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.

- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
  - b) the investigator's determination and the reasons for that determination
  - c) any recommendations, and
  - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the Code of Conduct, the complaints coordinator must provide a copy of the investigator's report to the CEO or, where the report relates to the CEO's conduct, to the Chairperson, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the Code of Conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary Board meeting for the Board's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary Board meeting following the election.
- 7.45 Where it is apparent to the complaints coordinator that the Board will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the Board under clause 7.44.

#### Consideration of the final investigation report by the Board

- 7.46 The role of the Board in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the Code of Conduct and has made a recommendation in their final report under clause 7.37.
- 7.47 The Board is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.48 Where the complainant is a Board member, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant Board member may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the Code of Conduct.
- 7.49 Prior to imposing a sanction, the Board must provide the respondent with an opportunity to make a submission to the Board. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation.
- 7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a Board member, take no part in any discussion or voting on the matter.
- 7.51 The Board must not invite submissions from other persons for the purpose of seeking to re-hear evidence previously considered by the investigator.
- 7.52 Prior to imposing a sanction, the Board may by resolution:

- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
  - b) seek an opinion from the Office in relation to the report.
- 7.53 The Board may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the Board and the respondent.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.57 The Board is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 The Board may by resolution impose one of the following sanctions on a respondent:
  - a) in the case of a breach by the CEO, that disciplinary action be taken under the CEO's contract of employment for the breach, or
  - b) in the case of a breach by a Board member, that the Board member be formally censured for the breach under section 440G of the LGA, or
  - c) in the case of a breach by a Board member
    - i. that the Board member be formally censured for the breach under section 440G of the LGA, and
    - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the Board censures a Board member under section 440G of the LGA, the Board must specify in the censure resolution the grounds on which it is satisfied that the Board member should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the Board considers may be relevant or appropriate.
- 7.60 The Board is not obliged to adopt the investigator's recommendation. Where the Board proposes not to adopt the investigator's recommendation, the Board must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 7.61 Where the Board resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the Board's decision and the reasons for it.

## **PART 8      Oversight and rights of review**

### The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under the council's Code of Conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the Code of Conduct in their consideration of a matter.

- 8.2 The Office may direct any person, including the Board, to defer taking further action in relation to a matter under consideration under the council's Code of Conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

#### Complaints about conduct reviewers

- 8.4 The CEO or their delegate must refer Code of Conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The CEO must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The CEO must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

#### Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these Procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

#### Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
  - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the Code of Conduct, or
  - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.

- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the Board to defer any action to implement a sanction. The Board must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the Board has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed. Where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary Board meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary Board meeting following the election, and
  - b) the Board must:
    - i. review its decision to impose the sanction, and
    - ii. consider the Office's recommendation in doing so, and
    - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the Board resolves to reaffirm its previous decision, the Board must state in its resolution its reasons for doing so.

## **PART 9      Procedural Irregularities**

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the Code of Conduct, except as may be otherwise specifically provided under the Code of Conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
  - b) reasonable steps are taken to correct the non-compliance, or
  - c) reasonable steps are taken to address the consequences of the non-compliance.

## **PART 10      Practice Directions**

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.



- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

## **PART 11 Reporting statistics on Code of Conduct complaints about Board members and the CEO**

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the Board within 3 months of the end of September of each year:
- a) the total number of Code of Conduct complaints made about Board members and the CEO under the Code of Conduct in the year to September (the reporting period)
  - b) the number of Code of Conduct complaints referred to a conduct reviewer during the reporting period
  - c) the number of Code of Conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
  - d) the number of Code of Conduct complaints investigated by a conduct reviewer during the reporting period
  - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
  - f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
  - g) the total cost of dealing with Code of Conduct complaints made about Board members and the CEO during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

## **PART 12 Confidentiality**

- 12.1 Information about Code of Conduct complaints and the management and investigation of Code of Conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these Procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a Code of Conduct complaint they have made or purported to make, the CEO or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future Code of Conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the CEO or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the CEO or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the CEO or their delegate.
- 12.5 The CEO or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant

- b) the complaints coordinator
- c) the Office, and
- d) any other person the CEO or their delegate considers should be notified of the determination.

12.6 Any requirement under these procedures that a complainant is to be provided with information about a Code of Conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the CEO or their delegate under clause 12.2.

12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.

Procedure for Administration of the Code of Conduct	Adopted by Riverina Water Board  <Details>
Legislation Associated with this Procedure	<i>Local Government Act 1993</i>  <i>Local Government (General) Regulation 2021</i>
Documents Associated with this Procedure	Model Code of Conduct  Riverina Water Code of Conduct Policy 1.01

# R4 Internal Reporting (Protected Disclosures) Policy

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** This report presents the reviewed Internal Reporting (Protected Disclosures) policy for adoption.

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**RECOMMENDATION** that Council adopt the Internal Reporting (Protected Disclosures) Policy 1.11

## Report

The Internal Reporting (Protected Disclosures) Policy 1.11 was last adopted in August 2021 but has been included in this round of public policy reviews to ensure it is considered by the current Board. Nothing has materially changed in that time.

This policy establishes Riverina Water's position on the reporting of wrong-doing, specifically in relation to matters contained within the PID Act – corrupt conduct, maladministration, the serious and substantial waste of resources, mismanagement of information and contravention of local government pecuniary interest.

This policy sets out how reports of wrongdoing will be dealt with by Riverina Water and is designed to complement normal communication channels between supervisors and their staff.

Once adopted, the policy will be made available on the council website and on the intranet, and information on the policy provided to staff through team meetings.

› **R4.1 Internal Reporting Protected Disclosures Policy 1.11.docx** [↓](#) 

## Financial Implications

Not applicable.

## Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



# Internal Reporting (Protected Disclosures)

## Purpose

The purpose of this policy is to establish Riverina Water County Council's position on the reporting of wrong-doing, and to create a common understanding of the internal reporting system for members of staff, board members and any other council officials, to confidently report wrongdoing without fear of reprisal. This policy sets out how reports of wrongdoing will be dealt with by Riverina Water and is designed to complement normal communication channels between supervisors and staff.

Members of staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a matter in accordance with this policy and the Public Interest Disclosures Act 1994 (PID Act).

## Policy Statement

The reporting of suspected wrongdoing is seen as vital to Riverina Water's integrity.

Corrupt conduct, maladministration, the serious and substantial waste of resources, mismanagement of information and contravention of local government pecuniary interest (matters covered under the PID Act) will not be tolerated.

Riverina Water has a responsibility to establish and maintain a working environment that encourages members of staff, board members and any other council officials to report wrongdoing and support them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and workplace conflict.

## Scope

This policy applies to all staff, board members and any other public official of Riverina Water.

The internal reporting system under this policy is not intended to be used for staff grievances, which should be raised through the standard grievance procedures under Section 9 of the Riverina Water County Council Enterprise Award.

## Definitions

Board member	Councillor who represents their member council on the Riverina Water County Council board
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Harass	To subject someone to hostile or prejudicial remarks or actions; pressure or intimidate
Reporter	Someone who reports wrongdoing
Reprisal	The act of punishing someone for an action or injury – can also be called workplace revenge which is the general action of purposeful retaliation within the workplace
PID Act	Public Interest Disclosures Act 1994
Public Official	Under the PID Act, a Riverina Water public official is defined as: Permanent employees, whether full time or part time; temporary or casual employees; Board Members; consultants; individual contractors working for Riverina Water; employees of contractors providing services to and on behalf of Riverina Water; other people who perform public official functions whose conduct & activities could be investigated by an investigating authority, including volunteers
Riverina Water	Riverina Water County Council, also referred to as “council”
Staff – member of staff	Permanent employees, whether full time or part time; temporary or casual
Victimise	Single someone out for cruel or unjust treatment
Wrongdoing	Behaviour or action that is wrong (not permissible)

## 1. Roles and Responsibilities

### 1.1 The role of staff and board members

Staff and board members play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Riverina Water public officials are obliged to:

- ◇ Report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- ◇ Assist with dealing with the report, if requested to do so, including supplying information, cooperating with any investigation and maintaining confidentiality
- ◇ Treat any staff member or person dealing with a report of wrongdoing with courtesy and respect; and



- ◇ Respect the rights of any person who is the subject of a report of wrongdoing

All Riverina Water public officials must not:

- ◇ Make false or misleading reports of wrongdoing; or
- ◇ Victimise or harass anyone who has made a report

The behaviour of all staff and board members involved in the internal reporting process must adhere to the Code of Conduct Policy 1.01. A breach of the Code of Conduct may result in disciplinary action.

To ensure that Riverina Water complies with the PID Act and deals with all reports of wrongdoing properly, all staff and board members with roles outlined below and elsewhere in this policy, will receive training on their responsibilities, where appropriate.

## 1.2 The role of the Chief Executive Officer (CEO)

The Chief Executive Officer has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, thereby ensuring that Riverina Water complies with the PID Act.

The CEO can receive reports from staff, board members and other public officials, and has a responsibility to:

- ◇ Assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- ◇ Deal with reports made under the Code of Conduct in accordance with the Code of Conduct Policy 1.1
- ◇ Ensure there are strategies in place to support reporters, protect reporters from reprisal, and manage workplace conflict that may arise in relation to a report
- ◇ Make decisions following any investigation, or appoint an appropriate decision-maker
- ◇ Take appropriate remedial action where wrongdoing is substantiated, or systemic problems are identified
- ◇ Refer actual and suspected corrupt conduct to the Independent Commission Against Corruption (ICAC); and



- ◊ Refer any evidence of a reprisal offence under section 20 of the PID Act to the Police or ICAC

### 1.3 Disclosures Coordinator

The Disclosures Coordinator has a central role in Riverina Water's internal reporting procedure. The Disclosures Coordinator can receive and assess reports and is the primary point of contact once a report has been received.

The Disclosures Coordinator has a responsibility to:

- ◊ Assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the Chief Executive Officer)
- ◊ Deal with reports made under the Code of Conduct in accordance with the Code of Conduct Policy 1.01
- ◊ Coordinate Riverina Water's response to a report
- ◊ Acknowledge reports and provide updates and feedback to the reporter
- ◊ Assess whether it is possible and appropriate to keep the reporter's identity confidential
- ◊ Assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- ◊ Where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer who is the subject of the report
- ◊ Ensure Riverina Water complies with the PID Act
- ◊ Provide six monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act

### 1.4 Disclosures Officers

Disclosures Officers are points of contact within the internal reporting system. They can provide advice about the procedure and this policy, receive reports of wrongdoing, and assist staff to make reports as required.

Disclosures Officers have a responsibility to:



- ◇ Document in writing any reports received verbally, and have the document signed and dated by the reporter
- ◇ Make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- ◇ Discuss with the reporter any concerns they may have about reprisal or workplace conflict; and
- ◇ Carry out preliminary assessment and forward reports to the Disclosures Coordinator or CEO for full assessment

## 1.5 Chairperson

The Chairperson can receive reports from staff, board members and other public officials about the Chief Executive Officer.

Where the Chairperson receives such reports, the Chairperson has a responsibility to:

- ◇ Assess the reports to determine whether or not they should be treated as a public interest disclosure (PID), and to decide how they will be dealt with
- ◇ Deal with reports made under the Code of Conduct in accordance with the Code of Conduct Policy 1.01
- ◇ Refer reports to an investigating authority if this is appropriate or required
- ◇ Liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- ◇ Refer actual or suspected corrupt conduct to ICAC; and
- ◇ Refer any evidence of a reprisal offence under section 20 of the PID Act to the police or ICAC

## 1.6 Coordinators and Supervisors

Coordinators and supervisors play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Coordinators and supervisors should be aware of this policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- ◇ Encourage staff to report known or suspected wrongdoing within the organisation, and support staff when they do





- ◇ Identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy
- ◇ Implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report; and
- ◇ Notify the Disclosures Coordinator or CEO immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the CEO, notify the Chairperson.

## 2 What should be reported?

Suspected wrongdoing within Riverina Water or any activities or incidents seen that are believed to be wrong, should be reported.

Reports about the five categories of serious misconduct (corrupt conduct maladministration, serious and substantial waste, government information contravention (breach of GIPA Act) and local government pecuniary interest contravention), which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and in accordance with this Internal Reporting Policy.

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in accordance with the relevant policies and legislation. This may include:

- ◇ Harassment or unlawful discrimination
- ◇ Practices that endanger the health or safety of staff or the public

Riverina Water will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

### 2.1 Reporting Categories under the PID Act

#### 2.1.1 *Corrupt Conduct*

Corrupt conduct is defined in sections 8 and 9 of the Independent Commission Against Corruption Act 1988. The definition provided in these sections is intentionally broad. Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include:

- The improper use of knowledge, power or position for personal gain or the advantage of others
- Acting dishonestly or unfairly, or breaching public trust
- Bribery, theft, fraud, misuse of resources



### 2.1.2 *Serious maladministration*

Maladministration is defined in section 11 of the PID Act as conduct that involves action or inaction of a serious nature that is either:

- Contrary to law (other than a legal technicality)
- Unreasonable, unjust, oppressive or improperly discriminatory
- Based wholly or partly on improper motives

An example of serious maladministration may be refusing to grant a person approval of a matter for reasons that do not relate to the merits of their application. When considering whether a matter is of a serious nature, there is a need to consider the severity, frequency or impact on the community and the public sector generally.

### 2.1.3 *Serious and substantial waste of public money*

A serious and substantial waste of public money is any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss of public funds or resources.

Serious and substantial waste can be:

- Absolute – where the waste is regarded as significant
- Systemic – where the waste indicates a pattern that results from a weakness within the organisation's systems
- Material – where the waste is about Riverina Water's expenditure or a particular item of expenditure, or is to such an extent that it affects Riverina Water's capacity to perform its primary functions

Examples could include the purchase of unnecessary or inadequate goods and services, or ongoing overstaffing in a particular area.

### 2.1.4 *Failure to comply with GIPA*

This is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act).

Some examples are:

- Intentionally overlooking documents that are clearly covered by a request to access information
- Destroying, concealing or altering records to prevent them from being released



- Knowingly making decisions that are contrary to the GIPA Act
- Directing another person to make a decision that is contrary to the GIPA Act

#### 2.1.5 *Local Government pecuniary interest contravention*

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. The onus is on board members, council delegates, council staff and other people to determine whether they are affected by the pecuniary interest provisions in relation to a matter under consideration by the council.

Under the *Local Government Act 1993* obligations relating to pecuniary interests include lodging disclosure of interest returns, disclosing pecuniary interests at board meetings and committee meetings and leaving the meeting while the matter is discussed. Allegations or complaints concerning possible breaches of the pecuniary interest provisions of the *Local Government Act 1993* are to be made to the Office of Local Government for assessment and any necessary action.

## 2.2 **Assessment of reports**

All reports of wrongdoing will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure (PID).

The Disclosures Coordinator is responsible for assessing reports, in consultation with the Chief Executive Officer where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be conducted and how that investigation should be carried out. In assessing a report, the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action is to be taken on the report.

## 2.3 **When will a report be treated as a public interest disclosure (PID)?**

Riverina Water will treat a report as a PID if it meets the criteria for such under the PID Act. These are:

- ◇ The report must be made by a public official
- ◇ The report must be about one of the five categories of serious wrongdoing – corrupt conduct, serious maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- ◇ The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing; and



- ◇ The report must be made to one of the following:
  - A person nominated to receive disclosures on behalf of Riverina Water (i.e. reporting officer, Reporting Coordinator)
  - The Chief Executive Officer, or, in the case of a report against the CEO, the Chairperson; or
  - An external investigating authority named in the PID Act

The internal report is NOT a PID when the report:

- ◇ Questions the merits of government policy (including local government policy)
- ◇ Is made solely or substantially with the motive of avoiding dismissal or other disciplinary action

Staff are encouraged to report general wrongdoing to their supervisor. However, the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this Policy.

### 3 Reporting a public interest disclosure

The following positions are the only people within Riverina Water who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below.

Disclosures Coordinator – Director Corporate Services

Disclosures Officers

People & Culture Business Partner

People & Culture Officer

WHS Officer

Governance & Records Officer

Chief Executive Officer

Riverina Water Board Chairperson

If a report involves a board member, it should be made to the Chief Executive Officer or to an external reporting body. If a report relates to the Chief Executive Officer, it should be made to the Chairperson or to an external reporting body.

#### 3.1 Who can receive a public interest disclosure outside of Riverina Water?

Staff and board members are encouraged to report wrongdoing within Riverina Water, but a public interest disclosure can also be made to:

- An investigating authority, or



- In limited circumstances, a member of parliament or a journalist

### 3.1.1 *Investigating authorities*

The PID Act lists a number of investigating authorities in NSW that staff, board members and other public officials can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example, a report about either the Chief Executive Officer or the Chairperson.

The relevant investigating authorities for Riverina Water are:

- ◇ ICAC — for reports about corrupt conduct
- ◇ the Ombudsman — for all PID reports
- ◇ the Information Commissioner — for disclosures about a breach of the GIPA Act; and
- ◇ the Office of Local Government— for disclosures about local councils.

The relevant investigating authority should be contacted for advice about how to make a disclosure to them.

The investigating authority may discuss with Riverina Water any reports they receive. Every effort will be made to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome.

Appropriate support and assistance will be provided to staff or board members who report wrongdoing to an investigating authority.

The contact details for external investigating authorities that a reporter can make a public interest disclosure to or seek advice from are:

#### Independent Commission Against Corruption

Toll Free: 1800 463 909  
Email: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

#### NSW Ombudsman

Toll free: 1800 451 524  
Email: [pid@ombo.nsw.gov.au](mailto:pid@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

### 3.1.2 *Members of Parliament or journalists*

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament or a journalist must have already made the same report to one of the following:

- ◇ the Chief Executive Officer;
- ◇ a person nominated in this policy, including the Chairperson for reports about



the Chief Executive Officer; or

- ◇ an investigating authority.

Additionally, Riverina Water or the investigating authority that received the initial report must have either:

- ◇ decided not to investigate the matter;
- ◇ decided to investigate the matter, but not completed the investigation within six months of the original report;
- ◇ investigated the matter but not recommended any action as a result; or
- ◇ not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

If wrongdoing is reported to a Member of Parliament or a journalist, to be protected under the PID Act it will need to be proved that there are reasonable grounds for believing that the disclosure is substantially true, and that it is in fact substantially true.

### 3.1.3 *Other external reporting*

If wrongdoing is reported to a person or authority that is not listed above, or a report is made to a Member of Parliament or journalist without following the steps outlined above, the individual will not be protected under the PID Act. This may mean they will be in breach of legal obligations or the Code of Conduct for disclosing confidential information.

For more information about reporting wrongdoing outside of Riverina Water, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit.

## 4. How to make a report

A report of wrongdoing can be made verbally or in writing. Reporters are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

### 4.1 Can a report be anonymous?

There will be some situations where a reporter may not want to be identified when making a report. Although these reports will still be dealt with, it is in the best interest of the reporter to identify themselves. This allows Riverina Water to provide the reporter with any necessary



protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to understand that an anonymous disclosure may not prevent a reporter from being identified by the subject/s of the report or their colleagues. If Riverina Water does not know who made the report, it is very difficult to prevent any possible reprisal should others identify them.

## **4.2 Feedback to staff who report wrongdoing**

When a report is made, the Disclosures Coordinator will contact the reporter to confirm that the report has been received. They will also advise the timeframe for further updates; and the name and contact details of any other people who can provide further information to the reporter.

After a decision is made about how the report will be dealt with, an acknowledgment letter will be sent, providing:

- ◇ information about the action that will be taken in response to the report;
- ◇ the likely timeframes for any investigation or other action; and
- ◇ information about the internal and external resources or support services available.

This information will be provided within ten (10) working days and no later than forty five (45) days from the date the report is made. The Disclosures Coordinator will also advise whether the report is to be treated as a public interest disclosure and provide a copy of this policy at that time, as required by the PID Act.

## **4.3 Progress updates**

While the report is being investigated, the reporter will be given:

- ◇ information about the progress of the investigation or other enquiries and reasons for any delay;
- ◇ advice of any decision by Riverina Water not to proceed with the matter; and
- ◇ advice if it is necessary for the reporter's identity to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

## **4.4 Feedback**

Once the matter has been finalised, the reporter will be given:

- ◇ enough information to show that adequate and appropriate action was taken



and/or is proposed to be taken in response to the disclosure and any problem that was identified; and

- ◇ advice about whether they are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

#### **4.5 Maintaining confidentiality**

Riverina Water understands reporters may want their identity and the fact they have made a report to remain confidential. They may feel that this will help to prevent any reprisal action being taken against them for reporting wrongdoing. Where possible, Riverina Water will take steps to keep the identity of the reporter, and the fact they have reported wrongdoing, confidential.

If confidentiality cannot be maintained, Riverina Water will develop a plan to support and protect the reporter from reprisal in consultation with them.

It is important that reporters only discuss their report with those responsible for dealing with it. This will include the Disclosures Coordinator and the Chief Executive Officer, or in the case of a report about the Chief Executive Officer, the Disclosures Coordinator and the Chairperson.

Any staff or board member involved in the investigation or handling of a report, including witnesses, are required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

### **5. Managing the risk of reprisal and workplace conflict**

Riverina Water will not tolerate any reprisal against staff, board members or any other public official who report wrongdoing or who are believed by others to have reported wrongdoing.

When a staff member or board member reports wrongdoing, Riverina Water will undertake a thorough risk assessment to identify the risk of detrimental action in reprisal for reporting, as well as related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Riverina Water may:

- ◇ proactively remind staff at team meetings about the seriousness of workplace bullying and harassment and the consequences for this
- ◇ relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- ◇ transfer the reporter or the staff member who is the subject of the allegation to





another position for which they are qualified; or

- ◇ grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

Whilst it is hoped that the workplace remains free of harassment and bullying, the other courses of action should not be seen as punishment and will only be taken in consultation with the reporter.

## 5.1 Protection against reprisals

If a public interest disclosure is made in accordance with the PID Act, the reporter will not be subject to any liability, and no action, claim or demand can be taken against the individual having made the public interest disclosure. The individual will not have breached any confidentiality or secrecy obligations and will have the defence of absolute privilege in defamation.

It is important for public officials to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Riverina Water has reasonable grounds to take such action.

Penalties can be imposed on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- ◇ injury, damage or loss
- ◇ intimidation or harassment
- ◇ discrimination, disadvantage or adverse treatment in relation to employment
- ◇ dismissal from, or prejudice in, employment; or
- ◇ disciplinary proceedings

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines and may be required to pay the victim damages for any loss suffered as a result of the detrimental action.

Taking detrimental action in reprisal is also a breach of the Code of Conduct which may result in disciplinary action. In the case of board members, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993*.



## 5.2 Responding to allegations of reprisal

If it is believed that detrimental action has been or is being taken against an individual in reprisal for reporting wrongdoing, the relevant supervisor, the Disclosures Coordinator or the Chief Executive Officer must be notified immediately. In the case of an allegation of reprisal by the Chief Executive Officer, the Chairperson should be notified.

All supervisors must notify the Disclosures Coordinator or the Chief Executive Officer if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the Chief Executive Officer, the Chairperson can alternatively be notified.

If Riverina Water becomes aware of or suspects that reprisal has been taken against a person who has made a disclosure, Riverina Water will:

- assess if the reprisal allegation warrants investigation, ensuring this is conducted by a senior and experienced member of staff; and
- take all steps possible to stop that activity should it be determined that reprisal is occurring

## 5.3 Support for those who report wrongdoing

Riverina Water will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator.

Riverina Water has an established Employee Assistance Program (EAP). The EAP service provides staff with confidential counselling, coaching and support for workplace and personal issues. Staff are encouraged to make an appointment with the EAP should they feel this would be helpful for them.

## 5.4 Sanctions for making false or misleading statements

Riverina Water will not support staff, board members or other public officials who wilfully make false or misleading reports. It is a criminal offence under the PID Act to wilfully make a false or misleading statement as a public interest disclosure. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of board members, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993*.



## 5.5 The rights of persons who are the subject of the report

Riverina Water is committed to ensuring staff or board members who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person who is the subject of a report confidential, where this is practical and appropriate.

The subject of a report will be advised of the allegations made against them at an appropriate time and before any adverse findings. At this time they will be:

- ◇ advised of the details of the allegation;
- ◇ advised of their rights and obligations under the relevant related policies and procedures;
- ◇ kept informed about the progress of any investigation;
- ◇ given a reasonable opportunity to respond to any allegation made against them; and
- ◇ told the outcome of any investigation, including any decision made about whether or not further action will be taken against them.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Riverina Water. The fact of the allegations and any investigation will remain confidential unless otherwise agreed to by the subject officer.

### More information

More information about public interest disclosures is available from the Disclosures Coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## Policy Implementation

Upon adoption, this policy will be presented to all staff at their regular meetings. Those staff that have been identified within this policy as being Reporting Officers, will be trained in their role and the reporting procedure. The policy will be published to the Intranet.

## Non Compliance

Non-compliance with adopted policy may be considered a breach under the Code of Conduct. As such, any suspected or known non-compliance will be reported to the Chief Executive Officer.

**Policy number****1.11**

Responsible area	Chief Executive Office
Approved by	Riverina Water Board (Res 21/088)
Approval date	24 August 2021
Legislation or related strategy	<p>Public Interest Disclosures Act 1994</p> <p>Public Interest Disclosures Regulation 2011</p> <p>Local Government Act 1993</p> <p>Anti-Discrimination Act 1997</p> <p>Fair Work Act 2009</p> <p>Independent Commission Against Corruption Act 1988</p> <p>Ombudsman Act 1974</p> <p>NSW Government Information (Public Access) Act 2009 (GIPA)</p> <p>Privacy &amp; Personal Information Protection Act NSW 1998 (PIPPA)</p> <p>Riverina Water Council Enterprise Award</p>
Documents associated with this policy	<p>Code of Conduct – Policy 1.01</p> <p>Fraud &amp; Corruption Prevention – Policy 1.14</p> <p>Fraud &amp; Corruption Prevention Plan – 1.14(a)</p> <p>Related Parties Disclosures – Policy 1.28</p> <p>Gifts &amp; Benefits Procedure – GC.001</p>
Policy history	<p>24 Aug 2021 – Res 21/088</p> <p>26 Oct 2016 – Res 16/190 (Policy name Protected Interest Disclosures)</p> <p>15 Oct 2014 – Res 14/131</p>

Page 17 of 18

Version 5

Last revised date 30/11/2022

Next scheduled review 11/2026



Original policy adopted 14 Dec 2012 – Res 12/176

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## **END OF POLICY STATEMENT**

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Page 18 of 18

Version 5

Last revised date 30/11/2022

Next scheduled review 11/2026

# R5 Enterprise Risk Management Policy

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** The Enterprise Risk Management policy is presented to the Board for review and adoption.

**RECOMMENDATION** that Council adopt the Enterprise Risk Management Policy 1.13

## Report

The Enterprise Risk Management policy sets out the key foundations, roles and responsibilities in relation to risk management at Riverina Water. It is designed to embed an advanced risk management culture.

The Enterprise Risk Management policy has been reviewed as part of the public policy review being undertaken this year. The policy is supported by an Enterprise Risk Management Framework and Plan which was adopted by management in 2020. As there is nothing in this Framework that urgently requires review, it is thought appropriate that this will be held over until a Risk Coordinator is appointed during 2023.

The Enterprise Risk Management Policy does not need to go on public exhibition as it represents an undertaking on Riverina Water's behalf rather than impacting directly on stakeholders and members of the community.

› **R5.1 Enterprise Risk Management.docx** [↓](#) 

## Financial Implications

Not applicable.

## Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



# Enterprise Risk Management

## Purpose

This policy sets out the key foundations, roles and responsibilities in relation to risk management at Riverina Water County Council (Riverina Water). It is designed to embed an advanced risk management culture.

## Policy Statement

Riverina Water has significant legislative, financial, service delivery, asset management and contractual responsibilities. It has a duty of care to board members, employees, contractors, volunteers, the community, the broader public and the environment.

Riverina Water will seek to understand and manage the strategic, operational and project risks and opportunities it faces, to enable it to make informed decisions and meet its responsibilities, council priorities and community expectations.

Riverina Water will adopt a risk management approach consistent with AS/NZS ISO 31000:2018 in our planning, approval, review and control processes.

## Scope

This policy applies to Riverina Water board members, staff, volunteers, contractors and service providers engaged to conduct authorised Riverina Water business.

## Definitions

Risk	The effect of uncertainty on objectives. Risk is measured in terms of the likelihood of an event occurring and the consequence (impact) of that event occurring
Risk appetite	The level of risk Riverina Water is prepared to accept, tolerate or be exposed to at any point in time
Enterprise risk management	The coordinated activities (culture, processes and systems) to identify, analyse, mitigate, monitor and report risks at all levels and across the organisation

## Data and document control

Page 1 of 8

Version 2  
Last revised date 14 Nov 2022  
Next scheduled review 2026



Controls	Measurable activities that are intended to modify the level of risk
Risk treatment	Additional activities should the level of risk remain unacceptable after controls are applied
Enterprise risk management plan	Document to specify the approach, management components and resources to be applied to the enterprise management of risk
Enterprise risk management framework	Shows the foundations for designing, implementing, monitoring, reviewing and continually improving risk management throughout Riverina Water

## Principles

It is the policy of Riverina Water to seek to achieve best practice in the management of all risks that threaten to adversely impact Riverina Water, its people, assets, function, objectives, operations or members of the public.

Risk management will form part of strategic, operational and line management responsibilities and be integrated into the strategic and business planning processes. Special risk responsibilities may be assigned to nominated officers of Riverina Water as determined by need.

Consultants may be retained from time to time to advise and assist in the risk management process, or management of specific risks or categories of risk.

Every employee of Riverina Water is recognised as having a role in risk management in the identification of risks to treatment and is encouraged to participate in that process.

Riverina Water will take a risk-based approach to managing risks based on the severity of the risk and effectiveness of controls. Management of extreme and high risks will be prioritised.

### Enterprise Risk Management Framework and Plan (ERMF and Plan)

Riverina Water will maintain a risk management framework and plan, detailing its approach to risk management, and to provide a consistent methodology to assess, prioritise and manage risk.

The Enterprise Risk Management Framework (ERMF) comprises this policy, board and management commitment to effective risk management, people and relationships that enable a risk aware culture and the objectives and strategies that provide the context for risk assessment and management.

### Data and document control

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Page 2 of 8

**Version 2**  
**Last revised date 14 Nov 2022**  
**Next scheduled review 2026**

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Figure 1. Riverina Water Enterprise Risk Management Framework

**Data and document control**

Page 3 of 8

**Version 2**  
**Last revised date 14 Nov 2022**  
**Next scheduled review 2026**



The Enterprise Risk Management Framework and Plan will be reviewed by management and approved by the CEO every two years. It will be provided to the Audit Risk & Improvement Committee and the Board for information.

The Framework will be aligned to the Australian/New Zealand ISO Standard on Risk Management (AS/NZS ISO 31000:2018)

Riverina Water will maintain an enterprise risk register including consideration of both the internal and external context of Riverina Water.

Managers are accountable for the management of operational risks within their respective areas of responsibility and a report on the high and strategic risks and their controls will be provided to the Audit Risk & Improvement Committee on an annual basis. These will inform and be considered in the development of the Internal Audit Plan.

Performance will be measured by:

- Implementation and documentation of risk management
- Identification of risks and successful treatment in accordance with procedures and guidelines
- Mitigation and control of any losses
- Reduction in the costs of risks
- Improvement in internal audit results on matters relating to risk

#### Key roles and responsibilities

##### Riverina Water Board

- Approve the Risk Management Policy and note the Enterprise Risk Management Framework(ERMF) and Plan
- Be satisfied that strategic risks are identified, managed and controlled appropriately
- Appoint the Audit Risk & Improvement Committee
- Allocate sufficient funds to support effective and efficient management of risks

##### Audit Risk & Improvement Committee

- Monitor the systems and processes for managing risks through internal audit, and consider the risk profile when developing and implementing the Internal Audit program
- Consider the adequacy of actions taken to ensure that high operational and strategic risks have been dealt with in a timely manner to mitigate exposures to Riverina Water

#### **Data and document control**

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Page 4 of 8

**Version 2**  
**Last revised date 14 Nov 2022**  
**Next scheduled review 2026**

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- Identify and refer specific projects or investigations deemed necessary to assess risk management through the CEO, the internal auditor and the council.

#### Internal Audit

- Consider strategic and operational risks in the development and implementation of the Internal Audit Plan and recommending improvements
- Periodically audit Riverina Water risk management practices and provide recommendations on improvements to management and the Audit Risk & Improvement Committee

#### CEO

- The CEO is accountable for ensuring appropriate risk management within Riverina Water
- Provide executive leadership in the management of strategic, operational and project risk, and generally champion risk management within Riverina Water
- Report expeditiously to the Audit Risk and Improvement Committee on any fraud and corruption incidents or material risk mitigation failures and actions taken
- Ensure that Riverina Water has the appropriate culture, capability, processes and systems to deliver on this policy and the ERMF and Plan.
- Ensure that risk management activities are aligned to Riverina Water strategy and objectives
- Ensure sufficient resourcing to support effective and efficient management of risks

#### Managers and supervisors

- These are the risk owners and are required to create an environment where the management of risk is accepted as the responsibility of all staff, volunteers and contractors
- Managers are accountable for the implementation and maintenance of sound risk management processes within their area of responsibility in conformity with Riverina Water's risk management framework including:
  - Improving and enhancing ways of managing risks
  - Identifying, recording and periodically reviewing risks
  - Identifying, recording and assessing effectiveness of existing controls
  - Implementing and maintaining effective internal controls
  - Developing treatment plans to treat higher level risks in a timely manner
- Managers and supervisors are also responsible for supporting good management practices that compliment risk management including:

#### Data and document control

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Page 5 of 8

**Version 2**  
**Last revised date 14 Nov 2022**  
**Next scheduled review 2026**

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- Complying with and monitoring staff compliance with Riverina Water's policies, procedures, guidelines and designated authorities
- Maintaining up-to-date information and documentation for key operational processes

#### Staff, contractors and service providers

- All staff, contractors and service providers are required to act at all times in a manner which does not place at risk the health and safety of themselves or any other person in the workplace
- Support risk owners (managers) and be responsible and accountable for taking practical steps to minimise Riverina Water's exposure to risks including contractual, legal and professional liability in so far as is reasonably practicable within their area of activity and responsibility
- All staff must be aware of operational and business risks. Particularly, staff should:
  - Provide input into various risk management activities
  - Assist in identifying key risks and controls
  - Report all emerging risks, issues and incidents to their supervisor, manager or other appropriate council officer
  - Follow Council policies and procedures

Some positions because of the nature of their role may have additional responsibilities for managing risks. These responsibilities will be listed in their position description or delegations.

### Policy Implementation

This Policy will be published to the Riverina Water Internet and Intranet. Staff awareness of the content of the policy will be achieved through team meetings and at induction for new members of staff. Training and awareness of safety and risk responsibilities is ongoing and risk management responsibilities are included in job descriptions and staff performance appraisals.

### Non-Compliance

Non-compliance with adopted policy may be considered a breach under the Code of Conduct. As such, any suspected or known non-compliance will be reported to the CEO.

#### Data and document control

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Page 6 of 8

**Version 2**  
**Last revised date 14 Nov 2022**  
**Next scheduled review 2026**

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## Document Details

<b>Policy number</b>	<b>1.13</b>
Responsible area	CEO
Approved by	
Approval date	
Legislation or related strategy	<p>Local Government Act 1993</p> <p>Work Health &amp; Safety Act 2011 (NSW)</p> <p>Work Health &amp; Safety Regulation 2017</p> <p>Civil Liabilities Act 2002</p> <p>Independent Commission Against Corruption Act 1988 (ICAC Act)</p>
Documents associated with this policy	<p>Riverina Water Enterprise Risk Management Framework and Plan</p> <p>Asset Management (Policy 3.1)</p> <p>Asset Purchase and Disposal (Policy 3.2)</p> <p>Business Continuity Plan</p> <p>Governance Framework</p> <p>Fraud &amp; Corruption Prevention (Policy 1.14)</p> <p>Health &amp; Wellbeing (Internal Policy 3.29)</p> <p>Environmental Policy (Policy 5.0)</p> <p>Work Health and Safety (Policy 4.3) plus all work health and safety procedures and guidelines (refer to Intranet for full list)</p>
<b>Data and document control</b>	
Page 7 of 8	
	<p><b>Version 2</b></p> <p><b>Last revised date 14 Nov 2022</b></p> <p><b>Next scheduled review 2026</b></p>



Riverina Water Enterprise Risk Register

Policy history	Original publication date 14 Dec 2012 Res 12/175
	Name changed from policy 5.3 on 22 Nov 2013
	Reviewed 15 Oct 2014 Res 14/170
	Reviewed May 2018 Res 18/55
	Reviewed 22 April 2020 Res 20/035
	Reviewed 14 December 2022

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

END OF POLICY STATEMENT

Data and document control

Page 8 of 8

Version 2  
Last revised date 14 Nov 2022  
Next scheduled review 2026

## R6 Equal Employment Opportunity Policy

### Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** The EEO Policy is presented to the Board for adoption following a period of public exhibition.

**RECOMMENDATION** that Council adopt the Riverina Water Equal Opportunity Policy noting there were no public submissions received following public exhibition.

### Report

The Equal Employment Opportunity policy was presented to the Board at its 26 October 2022 meeting for review. It was subsequently placed on public exhibition for a period of 28 days inviting submissions from the public. There were no public submissions received.

Subsequently the Riverina Water Equal Employment Policy 1.21 is now presented to the Board for adoption. Communication to all staff regarding the policy will follow its adoption and it will be made available on both the Riverina Water website and staff intranet.

› **R6.1** **EEO Policy.docx** [↓](#) 

### Financial Implications

Not applicable.

### Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



# Equal Employment Opportunity Policy

## Purpose

Riverina Water seeks to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification and bullying. Our aim is to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess.

## Policy Statement

Riverina Water is committed to ensuring the principles of equal employment opportunity, fair treatment and non-discrimination in the work environment.

Our goal is to eliminate direct, systemic and indirect discrimination. Riverina Water will promote EEO and fulfil its obligations as outlined in the NSW Local Government Act 1993 and NSW Anti-Discrimination Act 1977.

We aim to:

- Establish an equitable working environment where equal employment opportunities based on merit are provided in relation to access to services and information, transparent decision making, recruitment and selection, learning and development and career advancement and professional development.
- Create a working environment of mutual trust in which diversity and inclusion is valued, is free from discrimination and harassment and where each person is treated fairly with dignity and respect.

## Scope

This policy applies to employees, board members, members of Council committees, agents and contractors of Riverina Water, collectively referred to in this policy as 'workplace participants'. This policy is not limited to the workplace or work hours but extends to all functions and locations that are work-related such as work lunches, conferences, and Christmas parties.

Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of services.





## Definitions

Riverina Water	This means 'Riverina Water County Council' – may also be referred to as Council
Discrimination	Discrimination occurs when a person or a group of people are treated less favourably than another person or group because of their background or certain personal characteristics
EEO Contact Officers	This is a staff member who assists employees who experience discrimination and harassment in the workplace
Harassment	Harassment is an unwelcome behaviour that intimidates, offends or humiliates a person. It may target personal characteristics such as age, race, gender, religion, disability, or sexuality.
Workplace Bullying	Workplace bullying is a repeated and unreasonable behaviour that is directed towards a person or a group of people that creates a risk to their health and safety.
Workplace Participant	Workers (employees, agents, board members, committee members and contractors) at the workplace under the management and control of Riverina Water

## Principles

### 1 Discrimination

Discrimination is unlawful and may occur even if there is no intention to discriminate. Discrimination can be direct or indirect.

#### 1.1 Direct Discrimination

Direct Discrimination in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the federal, state and territory anti-discrimination laws and include sex, race, age etc.

Relevant current prohibitive grounds for NSW are:

- ✓ Race (including colour, nationality, descent, ethnic, ethno-religious or national origin)
- ✓ Religious belief, affiliation, conviction or activity
- ✓ Sex
- ✓ Marital status, domestic status, relationship status



- ✓ Pregnancy (including potential pregnancy)
- ✓ Homosexuality, transsexuality, sexuality, sexual preference/orientation, lawful sexual activity, gender identity
- ✓ Carers' responsibilities, family responsibilities, carer or parental status, being childless
- ✓ Disability/impairment, including physical, mental and intellectual disability
- ✓ Breastfeeding
- ✓ Age (including compulsory retirement)
- ✓ Industrial/trade union membership, non-membership or activity
- ✓ Political belief, opinion, affiliation, conviction or activity
- ✓ Employer association membership, non-membership or activity
- ✓ Political opinion
- ✓ Medical record
- ✓ Association (i.e., association with a person who has one or more of the attributes for which discrimination is prohibited)

## 1.2 Indirect Discrimination

This occurs when a person (i.e., discriminator) imposes an unreasonable requirement, rule, policy, practice or procedure;

- ✓ that is more difficult for one group of people to meet than others: or
- ✓ disadvantages people with a particular attribute or condition.

An example of indirect discrimination would be if Riverina Water were to impose a height restriction on all applicants for the position of 'Maintenance Operator' in order to be successfully considered for the position. This requirement at first glance appears equitable because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men.

## 2. Vilification

Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, transgender, transsexuality or HIV/AIDS. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

## 3 Harassment

Harassment occurs when someone engages in unwelcome conduct that results in a person feeling offended, humiliated or intimidated, and in the circumstances, a reasonable person would have anticipated that the other person would have felt this way.



Examples of harassment can include:

- insulting/insensitive jokes about a particular racial group
- derogatory comments
- pranks
- deliberate exclusion
- abusive, threatening or insulting words and behaviours, and/or
- displaying abusive writing and pictures

Harassment can occur even when there is no intention to offend or humiliate.

### **3.1 Sexual Harassment**

Sexual Harassment is an unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Examples of sexual harassment include, but are not limited to:

- physical contact such as pinching, touching, grabbing, kissing or hugging
- staring or leering at a person or at parts of their body
- sexual jokes or comments
- requests for sexual favours
- persistent requests to go out, where they are refused
- sexually explicit conversations
- displays of offensive material such as posters, screen savers, internet material etc.
- accessing or downloading sexually explicit material from the internet
- suggestive comments about a person's body or appearance
- sending rude or offensive emails, attachments or text messages.

*Please refer to the Occupational Harassment and Bullying Policy on the intranet.*

## **4 Bullying**

Bullying is a repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person. Single incidents of unreasonable behaviour



can also create a risk to health and safety and may escalate into bullying. There is no requirement that bullying be intentional.

*Please refer to the Occupational Harassment and Bullying Policy on the intranet.*

## 5 Victimisation

Victimisation is where a person is retaliated against or subjected to a detriment because they have:

- lodged a complaint against any person
- brought any other proceedings under the relevant legislation against any person
- given evidence or information, or produced a document, in connection with any proceedings under the relevant legislation
- or because the person believes that the other person or the associate has done, or intends to do any of the above

Examples of victimisation include:

- threatening behaviour
- disciplinary action that is not warranted and would not otherwise have been taken if a complaint had not been made
- exclusion or isolation
- unfair loss of benefits

Riverina Water Officials must not retaliate against a person who raises a complaint or subject them to any detriment.

## 6 Gender equality in the workplace

Riverina Water aims to fulfil its obligations as outlined in the NSW Local Government Act 1993 and NSW Anti-Discrimination Act 1977, by developing and implementing a workplace program aimed at eliminating discrimination and ensuring gender equality in employment and in the workplace.

The aim is to:

- promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace.
- remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters.
- promote the elimination of discrimination on the basis of gender identity in relation to employment matters (including in relation to family and caring responsibilities)



- foster workplace consultation on issues concerning gender equality in employment and in the workplace.
- improve the productivity and competitiveness of Riverina Water through the advancement of gender equality in the workplace.

## **7 Expectations and responsibilities**

### **7.1 All workplace participants must:**

- understand and comply with this Policy.
- treat each other with respect and ensure that their conduct complies with this policy.
- comply with Riverina Water's Code of Conduct
- ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients, or others with whom they come into contact through work.
- ensure they do not aid, abet, or encourage other persons to engage in unlawful conduct.
- follow the complaint procedure in this Policy if they experience any unlawful conduct.
- report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- maintain confidentiality if they are involved in the complaint procedure.

Workplace participants should be aware that they can be held legally responsible for their unlawful conduct. Workplace participants, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

Managers have a duty to address issues and potential issues regarding harassment and/or discrimination. Any issue raised with a manager or People & Culture will follow Riverina Water's complaint handling procedure

### **7.2 Managers and supervisors must also:**

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this policy and the law.
- intervene quickly and appropriately when they become aware of inappropriate behaviour.
- act equitably to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard.
- help staff resolve grievances informally



- refer formal grievances about breaches of this policy to the People and Culture unit for investigation
- ensure staff who raise an issue or grievance are not victimised
- ensure that recruitment decisions are based on merit
- consider requests for flexible work arrangements in an equitable manner.

## **8 Resolving Issues under this policy**

Riverina Water strongly encourages any workplace participant who feels that they have been subjected to any form of inappropriate conduct contrary to this policy, or who observes, witness or is made aware of any behaviour that could be deemed as harassment or discrimination, to take action by talking to their unit manager or People & Culture.

The complaint procedure has different options available to suit the circumstances of each individual situation. The manner in which a complaint will be handled is solely at the discretion of the unit manager and People & Culture.

### **8.1 Ways in which a complaint can be dealt with**

#### **8.1.1 Confront the issue**

If a workplace participant feels comfortable doing so, they should address the issue with the person concerned. A workplace participant should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a workplace participant does not feel comfortable confronting the person, or the workplace participant confronts the person and the behaviour continues, the workplace participant should report the issue to the unit manager or People & Culture.

If a workplace participant is unsure about how to handle a situation and is also unsure if they want to make a complaint, they should contact an EEO Contact Officer for support and guidance. The EEO Contact Officers aim to assist people uncertain about their rights. EEO Contact Officers are listed at the end of this EEO Policy.

#### **8.1.2 Report the issue**

A workplace participant should report the issue to a Complaints Officer. The Complaints Officer(s) is/are the People & Culture staff (People & Culture Officer and/or People & Culture Business Partner).

The Complaints Officer will aim to deal with the workplace participant's complaint in accordance with this Policy. There are two complaint procedures that can be used: informal



and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

### **8.1.3 Informal complaint procedure**

Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

- the Complaints Officer discussing the issue with the person against whom the complaint is made; and/or
- the Complaints Officer facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

The informal complaint procedure is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

### **8.1.4 Formal complaint procedure**

The formal complaint procedure involves a formal investigation of the complaint. Formal investigations may be conducted by a Complaints Officer or a person from outside Riverina Water, appointed by Riverina Water.

An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Complaints Officer or the external investigator will make recommendations about resolving the complaint.

If Riverina Water considers it appropriate for the safe and efficient conduct of an investigation, workplace participants may be required not to report for work during the period of an investigation. Riverina Water may also provide alternative duties or work during the investigation period. Generally, employees will be paid their normal pay during any such period.

### **8.1.5 Confidentiality**

The Complaints Officer will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other workplace participants in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint. If a complaint is raised and it appears that unlawful conduct has potentially occurred, Riverina Water will endeavour to take appropriate action in relation to the complaint.

All workplace participants involved in the complaint must also maintain confidentiality, including the workplace participant who lodges the complaint. Spreading rumours or gossip may expose workplace participants to a defamation claim. Workplace participants may



discuss the complaint with a designated support person or representative (who is not a workplace participant employed or engaged by Riverina Water). However, the support person or representative must also maintain confidentiality.

#### **8.1.6 Employee Assistance Program**

Riverina Water encourages employees who have experienced or witnessed discrimination, harassment, bullying or victimisation to seek support via its Employee Assistance Program (EAP). Contact details for Riverina Water's EAP can be found on the intranet.

## **8.2 Possible outcomes**

The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct or breach of this Policy, that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors.

Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected workplace participant and Riverina Water.

Agents and contractors (including temporary contractors) who are found to have engaged in unlawful conduct and/or breached this Policy may have their contracts with Riverina Water terminated or not renewed.

Riverina Water may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:

- training to assist in addressing the problems underpinning the complaint
- monitoring to ensure that there are no further problems
- implementing a new policy
- requiring an apology or an undertaking that certain behaviour stop; and/or
- changing work arrangements.

## **8.3 What to do if you are not satisfied with the outcome**

If any of the parties are not satisfied with the way the complaint was handled or the outcome of the complaint process, they can contact People & Culture. The complaint handling process and/or the outcome may then be reviewed by the People & Culture Business Partner in consultation with the Executives. If a review is undertaken, the parties' (People and Culture, and Executives) decision in relation to the review will be final.





Riverina Water's goal is to resolve issues in-house wherever possible. Workplace participants can seek the assistance of an outside agency if they feel that their complaint has not been adequately addressed.

### **Policy Implementation**

Riverina Water will establish appropriate training and information for all workplace participants, managers and EEO contact officers to assist the effective implementation of the EEO policy. Training will be organised by the People and Culture unit as required. Riverina Water reserves the right to vary, replace or terminate this policy.

### **Non-Compliance**

All workplace participants are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment.

Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with Riverina Water terminated or not renewed. If a person makes an unfounded complaint or a false complaint in bad faith (for example, making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

### **EEO Contact Officers**

EEO Contact Officer details can be found on the intranet.

Their pledge is to:

- do their best to be available to you
- listen and help you to determine what steps could be taken to stop the harassment or bullying and provide you with information of what options/assistance are available
- maintain your confidentiality
- provide ongoing support if required

Please note staff don't have to contact the EEO Contact Officer from their own department or division.



<b>Policy number</b>	<b>1.21</b>
Responsible area	CEO
Approved by	Riverina Water Board
Approval date	
Legislation or related strategy	<p>Riverina Water County Council Award</p> <p>Racial Discrimination Act 1975 (Cth)</p> <p>Anti-Discrimination Act 1977 (NSW)</p> <p>Sex Discrimination Act 1984 (Cth)</p> <p>Sex Discrimination and Fair Work Amendment Bill (respect at work) 2021</p> <p>Australian Human Rights Commission Act 1986 (Cth)</p> <p>Disability Discrimination Act 1992 (Cth)</p> <p>Age Discrimination Act 2004 (Cth)</p> <p>NSW Local Government Act 1993</p>
Documents associated with this policy	<p>Code of Conduct Policy 1.01</p> <p>Occupational Harassment and Bullying Policy 3.20</p>
Policy history	<p>Vers 5 Equal Employment Opportunity Pol 4.1 22 Feb 2017 (Res 17/18)</p> <p>Vers 4 - 24 June 2015 (Res 15/86)</p> <p>Vers 3 - 27 June 2012 (Res 12/71)</p> <p>Vers 2 - 7 Dec 2007 (Res 07/108)</p> <p>Vers 1 – 19 Oct 2005 (Res 05/86)</p> <p>Original 27 Aug 1997 (Res 97/57)</p>



Review schedule	Every 4 years
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Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

**END OF POLICY STATEMENT**

# R7 Drinking Water Quality Management Policy

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** The Drinking Water Quality Management policy is presented to the Board for endorsement as part of the public policy review currently underway.

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**RECOMMENDATION** that Council adopt the Drinking Water Quality Management Policy as presented in this report

### Report

The Drinking Water Quality Management policy provides Riverina Water's commitment to the sustainable management and supply of safe, high quality drinking water. It was last reviewed in 2020 and there has been no change in the policy since that time. It is presented to the Board as part of the public policy review.

Accordingly, the Drinking Water Quality Management policy 2.07 is presented to the Board for endorsement, noting that there is no necessity to place it on public exhibition as it a statement of intent that will not be affected by any community consultation.

› **R7.1 Water Quality Management Policy.docx** [↓](#) 

### Financial Implications

Water quality management is considered in both long-term financial planning and in the annual budget.

### Risk Considerations

Service Delivery	
Avoid	Council will avoid taking on any risks which may compromise water quality.



# Drinking Water Quality Management

## Purpose

This policy provides Riverina Water County Council's (Riverina Water) commitment to the sustainable management and supply of safe, high quality drinking water.

The policy provides a basis for:

- 1) the management and operation of Riverina Water's water supply activities involving sourcing water, water treatment processes, water storages, pumping and distribution systems,
- 2) promotion and awareness of its employees and contractors to be responsible for understanding, implementing and continuously improving council's activities and management systems associated with drinking water quality
- 3) demonstrating compliance with NSW Public Health Act 2010 and the Public Health Regulation 2012 that requires drinking water suppliers (such as local government water utilities) to develop and adhere to a 'quality assurance program' (or drinking water management system) from 1 September 2014.

## Policy Statement

Riverina Water is committed to providing safe, high quality drinking water, which consistently meets or exceeds the 2011 Australian Drinking Water Guidelines (ADWG), consumer and other regulatory requirements.

Riverina Water will implement and maintain a drinking water management system (DWMS) consistent with the *Australian Water Guidelines* to effectively manage the risks to drinking water quality, and to meet its governance requirements under NSW Health Act 2010.

## Scope

This policy covers potable water produced and managed by Riverina Water, through its water supply assets and facilities up to and including the customers' meter.

*Note: Potable water supplied by Riverina Water and into private assets (i.e. past the customers' meter is the responsibility of the property owner).*

Riverina Water's Drinking Water Management System (DWMS) has been developed to meet current water quality governance requirements, and supersedes Council's previous water quality management system, namely its Hazard Analysis and Critical Control Points (HACCP) system originally introduced in 2006.



The Public Health Act 2010 requires all drinking water suppliers to implement a [quality assurance program for the safe supply of drinking water](#) from 1 September 2014.

Stakeholders associated with this policy include:

- Riverina Water's Board Members
- State Government Regulators:
  - NSW Health,
  - NSW Department of Planning, Industry and Environment (DoPIE)
  - NSW Office of Local Government
- Constituent local government councils as defined under Riverina Water's Proclamation, consisting of:
  - Wagga Wagga City Council
  - Lockhart Shire Council
  - Federation Council
  - Greater Hume Council
- Riverina Water's customers and consumers
- Riverina Water's employees and contractors

## Definitions

ADWG	Australian Drinking Water Guidelines (2011)
CCP	Critical Control Point: A CCP is an activity, procedure or process that is critical to control a water quality hazard. CCPs must be monitored regularly, ideally continuously, to ensure the effectiveness of barriers.
DWMS	Drinking Water Management System
HACCP	Hazard Analysis Critical Control Point
OCP	Operational Control Point: An OCP is an activity, procedure or process that supports CCPs to control a water quality hazard(s). OCPs are also generally not critical to health and more related to water physical properties and aesthetics.
PHU	Public Health Unit

## Principles

To achieve its drinking water quality commitment, and in partnership with stakeholders and relevant agencies, Riverina Water will:



- Manage water quality at all points along the delivery network from the source water to the consumer's tap, by using a risk-based approach in which potential risks to water quality are to be identified and made explicit and managed to minimise any threat to drinking water quality.
- Integrate the needs and expectations of our consumers, stakeholders, regulators and employees into our planning.
- Retain regular monitoring of the quality of drinking water and effective reporting mechanisms to provide relevant and timely information and promote confidence in the water supply and its management to consumers.
- Maintain an appropriate contingency planning and incident response capability.
- Ensure that employees and contractors involved in the supply and treatment of drinking water are appropriately trained and understand their responsibility for ensuring that water quality is protected.
- Participate in appropriate research and development activities to ensure continued understanding of drinking water quality issues and efficient operation of water supply schemes.
- Align our water quality systems and processes with the DWMS's framework's proactive and multibarrier approach with industry's best practice in water quality management.
- Proactively seek and contribute to our industry's best practice for drinking water quality management and practices
- Continually improve our management practices by assessing performance against corporate commitments, state-government-based performance indicators and stakeholder expectations.

### **Policy Implementation**

Riverina Water will support this Policy by:

- Maintaining Council's Drinking Water Quality Management System (DWMS).
- Assessing risks, and if necessary, test for indicator organisms, pathogens, cyanobacteria, pesticides, disinfection by-products, per- and poly-fluoroalkyl



substances (PFAS), other organic compounds and radiological contamination as outlined in the NSW Drinking Water Monitoring Program

- Implementing appropriate operations and management procedures for water supply.
- Conducting regular Water Quality Committee Meetings as described in DWMS, Section 14.2
- Reporting on the supply of safe drinking water to NSW Health and NSW Department of Planning Industry and Environment
- Actively engaging with key stakeholders (customers and regulators) and industry peak organisations including the NSW Water Directorate
- Ensuring relevancy and currency of appropriate water quality training to employees
- Promoting awareness of employee's responsibilities and accountabilities with regards to water quality
- DWMS to be reviewed annually and a report provided to NSW Local Public Health Unit (PHU)

## Non Compliance

Non-compliance with Acts, Regulations and Standards, Guidelines and Procedures associated with Riverina Water's drinking water management programmes may lead to:

- 1) NSW Health's direct intervention into Riverina Water's management and water supply operations
- 2) Affect safety to Riverina Water's customers and the general public
- 3) May be considered a breach under the Code of Conduct and as such, any suspected or known non-compliance will be reported to the CEO.

## References

- NSW Public Health Act 2010:  
<https://www.legislation.nsw.gov.au/#/view/act/2010/127/full>





- NSW Public Health Regulation 2012:  
<https://www.legislation.nsw.gov.au/#/view/regulation/2012/311/sch3>
- Riverina Water's Drinking Water Management System (DWMS): <G:\DWMS Documents\DWMS Plan\DWQMP Riverina Feb 2019.pdf>
- NSW Health Guidelines for Drinking Water Management Systems (2013):  
<https://www.health.nsw.gov.au/environment/water/Pages/NSW-guidelines-for-drinking-water-management-systems.aspx>
- NSW Health Critical Control Points for Drinking Water Management Systems (December 2018):  
<https://www.health.nsw.gov.au/environment/water/Documents/ccps-for-dwms.pdf>
- NSW Health Drinking Water Website:  
<https://www.health.nsw.gov.au/environment/water/Pages/drinking-water.aspx>
- NSW Drinking Water Monitoring Program (2005, updated October 2011):  
<https://www.health.nsw.gov.au/environment/water/Pages/NSW-drinking-water-monitoring-program.aspx>
- NSW Health Drinking Water Management Review and Audit (Fact Sheet) January 2017: <https://www.health.nsw.gov.au/environment/water/Documents/dwms-review-and-audit.pdf>



<b>Policy number</b>	<b>2.07</b>
Responsible area	Engineering
Approved by	
Approval date	
Legislation or related strategy	NSW Public Health Act 2010 NSW Public Health Regulation 2012 Australian Drinking Water Guidelines (2011), NHMRC
Documents associated with this policy	Riverina Water Drinking Water Management System (DWMS)
Policy history	Vers 1 - 16 Dec 2020 – Res 20/127  Previously Internal Policy IP2.7 – Drinking Water Quality management
Review schedule	This policy will be reviewed every four years (or once per Board term)

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

## END OF POLICY STATEMENT

## R8 Rural Subtract Meters Policy

### Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** The Rural Subtract Meters policy 2.04 is presented to the Board for consideration as part of the public policy review.

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### RECOMMENDATION that Council:

- a) Note that the Rural Subtract Meters policy will be placed on public exhibition from 15 December to 31 January 2023 to invite public submissions on the policy
- b) Note that a further report will be provided to the February 2023 meeting advising the outcome of the exhibition period and requesting endorsement of the policy by the Board

### Report

The Rural Subtract Meters policy outlines what constitutes a subtract meter, the management of this arrangement and the reasons that this type of metering is no longer offered to customers. The content of this policy has not changed since the previous version and is presented now as part of the public policy review. It was scheduled for review in February 2023.

There are a small number of these arrangements still in place, so even though the expected input from customers is negligible it is considered appropriate that this policy is placed on public exhibition for consultation.

Due to the Christmas/New Year holiday period, the draft policy be placed on exhibition for an extended time. Accordingly, it is proposed that the draft policy be placed on public exhibition from 15 December to 31 January with a further report provided to the Board in February 2023.

› **R8.1 Rural Subtract Meters.docx**  

### Financial Implications

There are no financial implications associated with the review this policy. The Policy itself has provision for a payment of up \$2,000 to encourage customers with a subtract meter to apply for their own meter.

**Risk Considerations**

<b>Corporate Governance And Compliance</b>	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.

## Rural Subtract Meters

### Purpose

This policy seeks to address historical installation of rural subtract meters and their management. This policy outlines the reasons that these types of meters are no longer approved for installation.

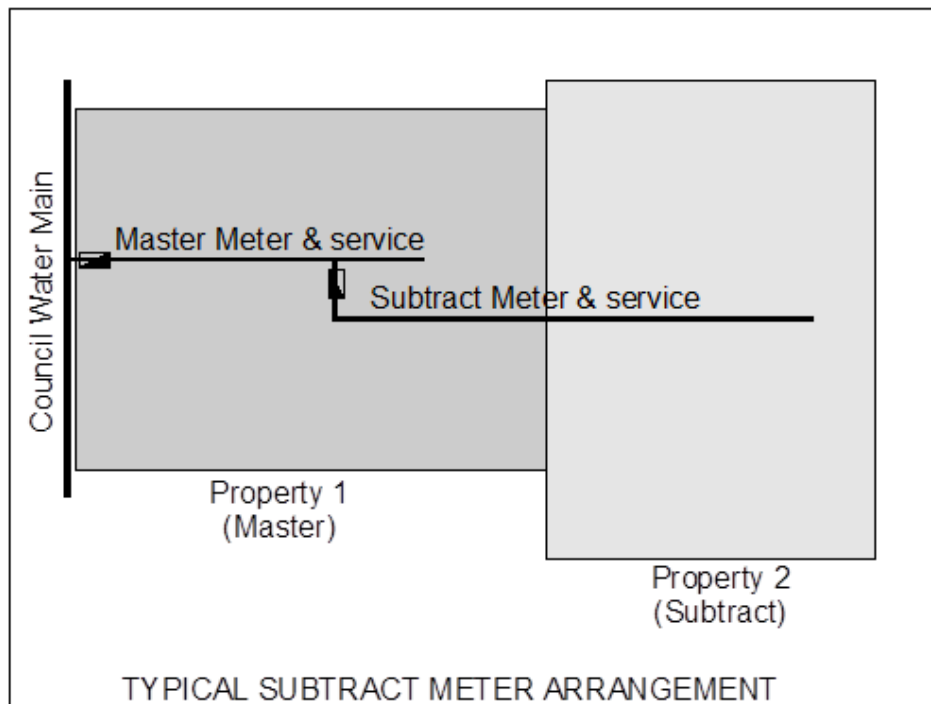
### Scope

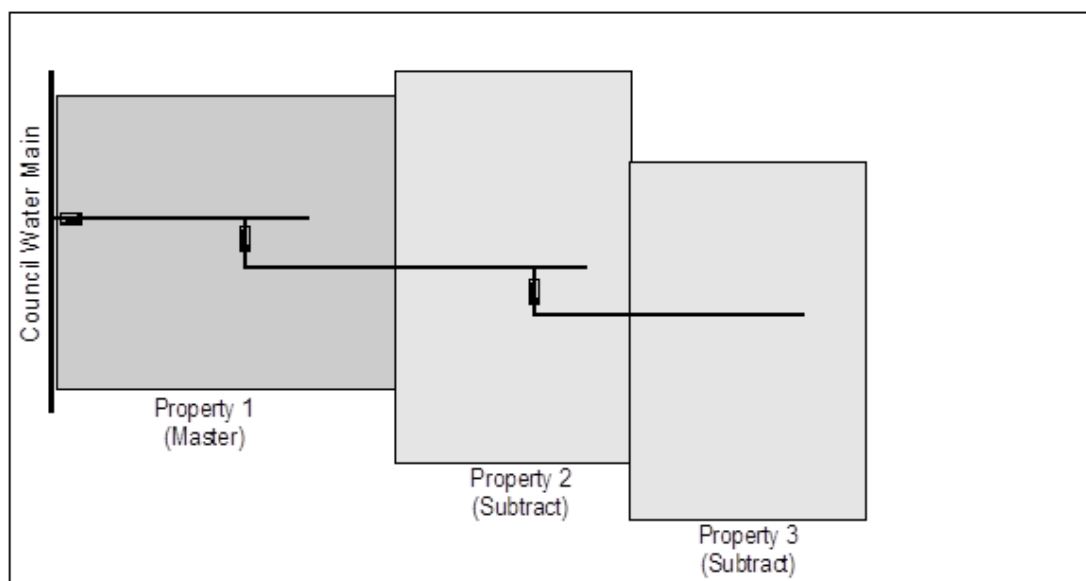
This policy applies to historical rural subtract meters only. Council has resolved that no new/additional rural subtract meters are allowed (refer to council resolution 01/108).

### Definitions

#### Rural Subtract Meters Explained

The term “subtract” water meter (or service) refers to a situation where the “subtract” service is connected to another consumer’s plumbing (the “master service”) rather than being directly connected to Council’s water main. The following diagrams shows a typical arrangement





### Subtract Billing Arrangements

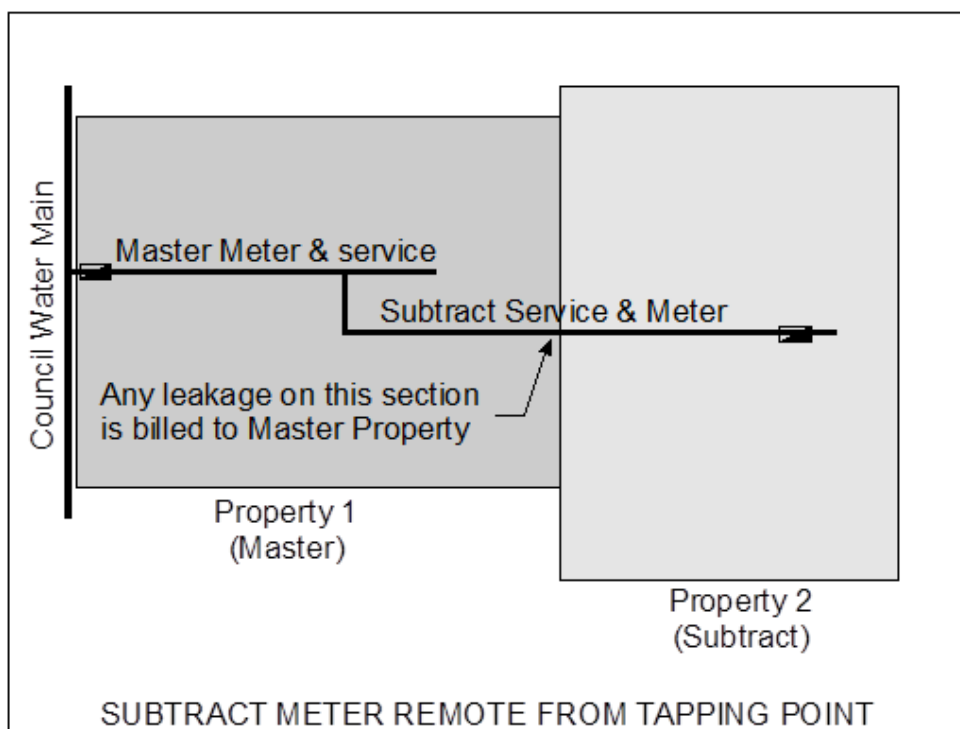
At billing time, Property 1 (in diagram above) is billed the difference between the Master and Subtract meters. Property 2 is billed according to the Subtract meter. These subtract meter installations have occurred as a historical alternate means of connecting to the reticulated water, where the second property is some distance from the water main, or where the connected rural property has been historically subdivided.

In the Riverina Water area, there are a total of 70 subtract services as at October 2018, 58 rural services and 12 “hobby farms”.

### Problems Associated with Subtract Meter Arrangements

- If the Subtract meter measurement slows or fails to record water used by the “subtract” property, the “master” property is billed for the water not recorded by the subtract meter. To some extent this problem is resolved at the billing stage by estimating usage through the subtract meter based on past usage.
- It is often difficult to position a subtract meter in a location which suits the consumers and is also accessible to Council's meter readers.
- If the owner of the master service needs to turn off their service for maintenance or other purposes, the Subtract service is isolated.
- Any leakage prior to the meter on the Subtract service appears on the water account for the “Master” property. This can cause quite significant problems when the subtract meter is a substantial distance from the tapping point (see following diagram)

- The additional water demand through the small diameter service line, can give rise to low flow/pressure complaints.
- Subtract meter installations were invariably by agreement between neighbours, with no legislative legal right of entry onto each other's property for maintenance or pipeline use. Such agreements can fail when ownership or relationships change.



## Regulations

The Local Government (General) Regulation 2021 includes:

152 Premises to be connected to water supply by an independent house service pipe

- 1 The owner of premises must, unless the council authorises otherwise, ensure that the premises are not connected to a property service pipe linked to the council's water supply system except by an independent house service pipe.
- 2 The owner of premises connected to the council's water supply by an independent house service pipe must ensure that the pipe has a stop-valve within the premises that is not more than 450mm from the road alignment or at some other place within the premises approved by the council.
- 3 If several premises are supplied with water by a single house service pipe, the council may require, as a condition of the supply, that a separate house service pipe be laid to each of the premises.



- 4 *If the council authorises the connection of 2 or more premises by means of a single house service pipe, the owner of each of the premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that there is installed on each of those premises:*
- (a) *a separate stop-valve that complies with subclause (2), and*
  - (b) *a separate water meter to measure the water supply to those premises.*
- 5 *The owner of a group of contiguous premises may request the council to lay a large property service pipe or water sub-main to supply 2 or more of the premises in the group."*

This regulation clearly promotes separate service connections, and the requirements of clause (4) for separate stop-valves and meters cannot be met in most subtract meter situations. It would therefore not be in order for Council to adopt a policy that allows any further subtract meters to be installed.

### Shared Private Lines

In addition to the 58 rural subtract services, there are twelve (12) shared private lines in rural areas. In these instances, a master meter records the total flow leaving council's main, and each consumer has an individual meter off the shared private line. This situation is far from ideal, as responsibilities for upkeep of the private line, and associated access onto each other's properties can create conflict, however the sharing of any water losses from the shared main is more easily proportioned.

One possible solution is where possible, existing subtract meter arrangements could be converted to shared private lines, although this is difficult where the primary consumer has stock troughs or other multiple connections.

The **best option** for servicing a property which cannot practically be served by an adjacent main, is a separate private line within an appropriate easement or road reserve. This has been Council's policy since 2001. Where possible Council should be proactive in trying to reduce the number of subtract and shared line arrangements

### Council Assistance in Resolving a Subtract Meter Issue

When Council is asked to assist resolve a subtract meter issue, the following advice needs to be conveyed to the landowner;

- Notify the landowners that those served off rural subtract meters DO NOT have a legislated legal entitlement for their private pipeline and water supply through the intervening property.
- Council is not obliged to assist in providing a dedicated/independent water supply service to the subtract metered connections if the landowners have a disagreement.





- Council has a continuing programme to encourage the removal of rural substract meters and can offer the new connection to the Council's main at no charge. Consideration will also be given to a maximum contribution of \$2,000 to an impacted landowner toward the total project cost.

<b>Policy number</b>	<b>2.04</b>
Responsible area	Engineering
Approved by	
Approval date	
Legislation or related strategy	Local Government (General) Regulations 2021
Documents associated with this policy	
Policy history	Vers 4 – number change 26/04/21 from 2.5 and 2.41 Vers 3 – 27 Feb 2019 Res 19/16 Vers 2 – Nov 2018 Vers 1 – 12 Dec 2001 Res 01/108
Review schedule	Every 4 years

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

## END OF POLICY STATEMENT

## R9 Asset and Infrastructure Naming Policy

### Organisational Area Corporate Services

**Author** Josh Lang, Customer and Communications Team Leader

**Summary** The reviewed Asset and Infrastructure Naming Policy is presented to the Board for review and will be placed on public exhibition prior to adoption.

### RECOMMENDATION that Council

- a) Endorse the reviewed Asset and Infrastructure Naming Policy and place it on public exhibition from 15 December 2022 to 31 January 2023 and invite public submissions on the draft policy
- b) Receive a further report following the public exhibition and submission period:
  - a. Addressing any submissions made in respect of the reviewed policy
  - b. Proposing adoption of the policy unless there are any recommended amendments deemed to be substantial and requiring a further review

### Report

All public policies are currently being reviewed during the first twelve-month period of the Board. The Asset and Infrastructure Naming Policy has now been reviewed, with no changes made except for minor wording updates.

This policy formalises the principles and processes by which Riverina Water names identified infrastructure or assets in recognition of a person, place, event or similar.

The Policy needs to be exhibited for public comment as any feedback could influence the content and operation of the Policy when naming new assets and infrastructure. The draft policy will be on exhibition for an extended time due to the Christmas-New Year period.

› R9.1 Assets Infrastructure Naming Policy 1.27.docx [↓](#) 

### Financial Implications

N/A

**Risk Considerations**

<b>Corporate Governance And Compliance</b>	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



## Asset & Infrastructure Naming policy

### Purpose

To formalise the principles and processes by which Riverina Water names identified infrastructure or assets in recognition of a person, place, event or similar.

### Policy Statement

Riverina Water recognises names are an important navigation and reference tool for the community, as well as being part of a community's identity.

Generally, Riverina Water's assets and infrastructure are not given a specific name outside of their function and/or location. From time to time, Riverina Water shall identify assets or infrastructure that have the opportunity to be given a unique or special name.

This policy will provide the standards and conditions for naming these identified assets and infrastructure within the supply area.

### Scope

The Executive will identify assets or infrastructure not generally accessible by the public to be considered for naming.

Members of the public may submit a request for an asset or infrastructure to be named, which will be considered by the Board or Executive depending on the criteria above.

In selecting appropriate names, Riverina Water will endeavour to honour and observe local history of the relevant geographic area or infrastructure/asset, including consideration for names recognising the Wiradjuri People.

Naming is generally reserved for new assets and infrastructure only. Exceptions to this will be determined by the Board.

#### Data and document control

Page 1 of 4

Author: J Lang

EDRMS #

Version 1.0

Last revised date November 2022

Next scheduled review 2024-25



## Naming criteria

In general terms, naming should be unique and use spelling and style of contemporary Australian English or Wiradjuri language. Names should be easily identifiable to enable clear communication in times of emergency.

A name shall wherever possible be:

- relevant to local history, flora, fauna, culture, landscape and physical characteristics or relevant to the organisation's history and purpose
- short and simple
- easy to pronounce, spell and write, with exception to those in the Wiradjuri language
- in accordance with community standards and expectations
- complementary with existing names and adjoining assets
- not easily confused with or duplicating names within the region
- considerate of any potential risk to reputation

In addition, if personal names are used:

- the person commemorated should have contributed significantly to Riverina Water and/or to the wider community
- the person commemorated should preferably be recognised in memoriam
- the naming should be supported by the community

## Process for naming assets and infrastructure

Names for identified assets or infrastructure not generally accessible by the public will be determined by the Executive.

Names for identified publicly accessible assets and infrastructure will be determined by the Board following public exhibition of the proposed name for a minimum of 28 days.

Submissions from members of the community will be considered by the Board and further community engagement will be undertaken as required.

### Data and document control

Page 2 of 4

Author: J Lang

EDRMS #

Version 1.0

Last revised date November 2022

Next scheduled review 2024-25



## Policy Implementation

Riverina Water will keep a record of possible names suggested by the community that meet the criteria, to be considered for future naming opportunities.

Riverina Water will identify opportunities for naming new assets and infrastructure.

## Non Compliance

Non-compliance with adopted policy may be considered a breach under the Code of Conduct. As such, any suspected or known non-compliance will be reported to the CEO.

<b>Policy number</b>	<b>1.27</b>
Responsible area	CEO
Approved by	Riverina Water Board – Res 20/079
Approval date	26 August 2020
Legislation or related strategy	
Documents associated with this policy	
Policy history	First adopted 26 August 2020 Reviewed November 2022 Next review October 2024

Policy details may change prior to review date due to legislative or other changes, therefore this document is uncontrolled when printed.

## Data and document control

Page 3 of 4

**Author:** J Lang

**EDRMS #**

**Version 1.0**

**Last revised date November 2022**

**Next scheduled review 2024-25**



**END OF POLICY STATEMENT**

**Data and document control**

Page 4 of 4

**Author: J Lang**

**EDRMS #**

**Version 1.0**

**Last revised date November 2022**

**Next scheduled review 2024-25**

# R10 Records Management Policy Recission

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** As part of the public policy review, it is recommended that Records Management Policy 1.18 be rescinded.

**RECOMMENDATION** that Council rescind Records Management Policy 1.18 noting that it will instead be replaced by Riverina Water Records Management Guidelines.

## Report

The Records Management policy has been reviewed as part of the public policy review. This policy states compliance requirements for records management at Riverina Water. Legislation regarding records management is contained within the State Records Act and within Riverina Water's Code of Conduct. Both of these make clear policy statements regarding the management of records at Riverina Water.

Riverina Water has adopted Records Management Guidelines covering both compliance requirements and procedures. With that in mind, it is recommended that the public policy Records Management is rescinded noting that the Records Management Guidelines offer internal guidance on the management of records at Riverina Water.

The Records Management Guidelines will be reviewed during 2023 to ensure that matters that might have been highlighted from the State Records Management self-audit (RMAP) (see minutes of ARIC Nov 2022) are also considered and to ensure that matters covered in the existing policy are included.

› **R10.1** **Records Management Policy 1.18.docx** [↓](#) 

## Financial Implications

Not applicable.

## Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.





## POLICY REGISTER

### RECORDS MANAGEMENT POLICY

<b>REFERENCE NUMBER:</b>	<b>POL 1.18</b>		
<b>Original publication date</b>	<b>2005</b>		
<b>Revision number</b>	<b>Issue Date</b>	<b>Council resolution</b>	<b>Council meeting date</b>
1	19/1/2009		19 Jan 2009
2	12/12/2014	Res 14/171	12 Dec 2014
3	9/12/2016	Res 16/223	9 Dec 2016
This document is to be reviewed every four years. Next review date: December 2020			
<b>RESPONSIBLE OFFICER</b>			General Manager

## PART 1: INTRODUCTION

### 1.1 Policy Objective

This policy determines the requirements for managing all records for Riverina Water County Council in both electronic and hardcopy formats in accordance with relevant legislation, standards and codes of best practice approved by the State Records Authority.

### 1.2 Scope of Policy

This policy applies to Councillors and staff of Riverina Water County Council.

### 1.3 Definitions

Archives-those records that are appraised as having continuing value

Records-“..any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means.”

Recordkeeping Systems-“..information systems which capture, maintain and provide access to records over time..”

State records-“..any record made or kept, or received and kept, by any person in the course of the exercise of official functions in a public office, or for any purpose of a public office, or for use of a public office..”

State Archive-A State record that the State Records Authority of New South Wales has control of under the State Records Act 1998(NSW).

### 1.4 Legislative Context

State Records Act 1998 and State Records Regulation 2010.

This legislation is supported by the following standards and guidelines;

- Australian Standard, AS ISO 15489-2002, Records Management
- Australian Standard AS5090-2003, Work process analysis for recordkeeping
- NSW Ombudsman, Good Conduct and Administrative Practice: Guidelines for State and local government2003

Other related legislation includes;

- Copyright Act 1968 (Commonwealth)
- Evidence Act 1995 (NSW)
- Government Information (Public Access) Act 2009
- Health records and information Privacy Act 2002
- Local Government Act 1993
- Privacy and Protection of Personal Information Act 1998

### 1.5 Related Documents

- Policy 1.1 Code of Conduct
- Policy 1.2 Code of Meeting Practice
- Policy 1.9 Councillor access to information and interaction with staff
- Policy 1.15 Public Access to Information
- Policy 1.20 Privacy Policy
- InfoXpert Workbench user guide

## PART 2: POLICY CONTENT

As a public agency, Riverina Water County Council is bound by the regulations and requirements of the State Records Act 1998. The Act sets out codes of best practice to which Council must comply. Failure to do so could leave Council open to criticism in an investigation-whether by a Minister, a Royal Commission, an auditor or a law enforcement body. State Records legislation requires Riverina Water County Council to make and keep records that fully and accurately document operations and administration.

Why we need “full and accurate “records:

- i. Facilitate action by employees at any level, and by their successors;
- ii. Make possible a proper scrutiny of the conduct of business by anyone authorised to undertake such scrutiny, and,
- iii. Protect the financial, legal and other rights of the organisation, its clients and any other people affected by its actions and decisions.
- iv. To comply with all external requirements relating to record keeping practices.

To be a “full and accurate” record the Australian Standard requires that records possess the following attributes.

ATTRIBUTE	EXPLANATION OF ATTRIBUTE
Compliant	Complying with the recordkeeping requirements from the regulatory environment in which the organisation operates
Adequate	For the purposes for which they are kept
Complete	Containing not only the content, but also the structural and contextual information necessary to document a transaction, as
Meaningful	With links to other records documenting a sequence of transactions
Comprehensive	Documenting the complete range of the organisation’s business
Accurate	Reflecting accurately the transaction that they document
Authentic	Enabling proof that they are what they purport to be and their purported creators indeed created them
Inviolable	Securely maintained to prevent unauthorised access, alteration or

Records are a vital ingredient in support of Council’s ongoing business activities. Effective management and preservation of Council’s corporate memory is intrinsic to both the decision making process and productivity within Council.

### Disposal of Records

Records must be protected, maintained, accessible, and useable for their entire retention period, as outlined in the General Authority 39 (GA 39), Local Government Records.

Records cannot be disposed of other than in accordance with the State Records Act 1998, GA 39. The approval of the General Manager or person/s delegated by him is also a requirement for records disposal.

The State Records Act 1998 (NSW) requires public offices to ‘make and keep full and accurate records’ of their business activities.

Poor record keeping practices within the public sector contribute to inefficiencies and poor decision making. Poor record keeping means that evidence may not even exist or may not be adequate to

meet Council requirements for accountability. Records are vital for ongoing business and for internal and public accountability.

The NSW Public Sector Code of Conduct requires that public officials should 'maintain adequate documentation to support any decision made in the performance of their duties.

## **Councillors**

Councils are identified as public offices under the State Record Records Act 1998. When discharging functions of Council, Councillors are subject to the Act when they create or receive 'State Records'. It is recognised that in practice these circumstances are limited and include such items as:

- A petition received from a community group
- Written complaints, suggestions or enquiries by ratepayers about council services

Originals of such records are to be made available to the General Manager for inclusion in Councils official records.

## **Staff**

All Council employees have a number of basis obligations regarding records:

- i. Make records to support the conduct of Council's business activities.
- ii. Create records that would not otherwise be created e.g. Meetings, telephone discussions, conference and oral decisions must be documented.
- iii. Register records into either paper or electronic recordkeeping systems. All official outgoing communications should contain reference to the Document ID number from infoXpert.
- iv. Learn how and where records are kept at Council.
- v. Do not destroy Council records without authority to do so from the General Manager.
- vi. Do not lose records
- vii. Be aware of records management procedures.
- viii. Council will support relevant staffing positions by providing training in the use of the Electronic Management System, InfoXpert. Other training in the management of council records will be provided by supervisors as part of "on the job" training.

# R11 Project Management Policy Recission

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** The Project Management Policy is presented to the Board for rescission for the reasons outlined in the report

**RECOMMENDATION** that Council rescind Project Management Framework Policy 1.25 noting that a new project management approach will be developed during 2023.

### Report

The Project Management Framework was developed in 2016 as part of a requirement for the Water Treatment Plant contract. It was adopted as a public policy in August 2016 (Res 16/191). This policy does not meet the definition of a public policy for the purposes of our policy review as it provides internal guidance on the management of projects.

As stated in this Framework it does not apply to all capital expenditure due to the nature of the work involved. Therefore, there has not been an agreed approach organisationally to project management. This has been identified in a recent internal audit. One of the outcomes from this audit will be a review of the project management framework and associated documentation.

It is therefore recommended that the public policy Project Management Framework Policy 1.25 be rescinded, noting that a new organisational project management approach will be developed and adopted during 2023.

› **R11.1 Project Management Framework Policy 1.26.docx** [↓](#) 

### Financial Implications

There are no financial implications associated with the rescission of this policy.

### Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



## POLICY REGISTER

### PROJECT MANAGEMENT FRAMEWORK

<b>POLICY REFERENCE NUMBER:</b>		<b>POL 1.25</b>	
<b>Original publication date</b>		<b>22 June 2016</b>	
<b>Revision number</b>	<b>Issue Date</b>	<b>Approved</b>	<b>Approval date</b>
0	22/6/2016	Res: 16/191	24 August 2016
This document is to be reviewed every council term. Next review date: <b>June 2020</b>			
<b>Responsible OFFICER</b>	CEO		

## **POLICY OBJECTIVES**

Riverina Water has developed a Project Management Framework to achieve the following Objectives:

- To provide a consistent corporatewide framework for managing projects.
- To align projects with Riverina Water's strategic plans.
- To increase project transparency and visibility to enable effective decision making regarding the optimal use of resources.
- To deliver services through improved project management capability.
- To improve the efficiency and consistency in project delivery.
- To reduce and manage project risks.
- Support the capability development of staff managing projects.

## **POLICY STATEMENT**

Riverina Water's Project Management Framework provides a systematic, consistent approach to managing projects.

## **PROCEDURE**

The purpose of the Project Management Framework is to promote a systematic, consistent and corporate wide approach to the management of projects. The framework also provides a sound basis for good decision making, allocation of resources, with improved stakeholder consultation from project conception to completion.

The scope of the framework comprises

- This policy
- Project Management Methodology
- Tools (systems and templates)
- Project management capability development
- Establishing a Project Management Office

These components are all designed to be applied together to manage a project through its lifecycle. The framework is designed to be used with other existing Riverina Water systems, policies and procedures.

## **PROJECT MANAGEMENT METHODOLOGY**

Riverina Water has based its framework on the Project Management Institute (USA) 'A Guide to the Project Management Body of Knowledge (PMBOK Guide)', Fifth Edition.

The Project Management Methodology comprises of the following key processes:

- Initiation
- Planning
- Communications
- Executing
- Monitoring and Controlling
- Closing

## SCOPE OF POLICY

The scope of this policy applies to “projects” as identified in the Project Management Framework as follows:

<b>Project Work</b>	<b>Operational Work</b>
Has a specific goal	Work repeats over a period of time
Finite	Occurs within company “status quo”
One time only	
Work is unique or “one off”	
Changes company “status quo”	

Based on this definition, the Project Management Framework may not apply to all capital expenditure due to the nature of the work involved. However there may be occasion where operational work may be required to be managed as a project due to the resources, risks and controls involved.

The table below provides a guide to determine whether work should be managed as a project with associated Project Management controls or as operational work.

	<b>Manage as a Project</b>	<b>Manage as Operational Work</b>
<b>Time</b>	1 Month duration or greater	Less than 1 month duration
		Or
<b>Work</b>	Unique and temporary Has defined start and finish	Not unique Ongoing
<b>Risk</b>	High risk – work effort not well understood Needs to be defined and planned	

## PROJECT IDENTIFICATION

Under the Division of Local Government Integrated Planning and Reporting Framework, councils are required to produce a number of documents.

To satisfy these requirements, Riverina Water has the following documents which contribute to the identification of future projects:

- Strategic Business Plan and Resourcing Strategy
- Asset Management Plan
- Asset Management Strategy
- Work Force Plan
- 4 Year Delivery Program
- Operational Plan

Projects may also be identified through other sources including, but not limited to:

- Legislation change
- Resolutions of Council
- Unexpected events and natural disasters
- Business improvements

Riverina Water's forward planning contributes to the identification of programs and projects and allocation of funds each year to deliver priority projects to the community.



# R12 Pesticide Use Notification Plan

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** Riverina Water is required to have a Pesticide Use Notification Plan. As it is effectively a policy of council, it has been included in the public policy review schedule.

## RECOMMENDATION that Council:

- a) Note that the Pesticide Use Notification Plan has been reviewed and will now be placed on public exhibition as required under the Pesticides Regulation 2017
- b) Note that following a period of public exhibition the Pesticide Use Notification Plan will be re-submitted to the Board for endorsement

## Report

The Pesticides Regulation 2017 requires Riverina Water as a local government authority to prepare a Pesticide Use Notification Plan. This plan is treated as a policy of council. This Pesticide Use Notification Plan has therefore been included in the public policy review schedule for Board endorsement.

As stated in the Plan, communication will include publishing on Riverina Water's website to allow submissions from interested parties.

› **R12.1 Pesticide Use Notification Plan.docx** [↓](#) 

## Financial Implications

Not applicable.

## Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



## Pesticide Use Notification Plan

### Purpose

The aim of this Plan is to meet the community's right to know about pesticide applications made to outdoor public places that are controlled / used / managed or owned by Riverina Water. This plan allows members of the community to take action to avoid contact with pesticides and the methods Council implements is designed to have minimal impact on the local environment.

### Scope

This *Pesticide Use Notification Plan* has been prepared in accordance with the requirements of the 'Pesticides Regulation 2017' and is treated as a policy of council.

Riverina Water County Council is a water supply authority that supplies drinking water to a number of Local Government areas including the City of Wagga Wagga and the Shires of Greater Hume, Lockhart and part of Federation, which includes the localities of: Uranquinty, Ladysmith, Tarcutta, Yerong Creek, Mangoplah, Humula, Henty, Morven, Ralvona, Holbrook, Woomargama, Culcairn, Walla Walla, Walbundrie, Rand, Oaklands, Pleasant Hills, Urana, The Rock, French Park, Milbrulong, Lockhart, Boree Creek, Morundah, Bulgary, Currawarna, Collingullie, The Gap, Brucedale, Oura and rural areas.

There are over 35,000 customer connections within the 15,500 sq km served.

### Public Places Covered by this Plan

Riverina Water proposes to use or allow the use of pesticides / herbicides in the following categories of outdoor public places that it has access to:

- Road verges and reserves;
- Road and rail easements accessible to the public;

It should be noted that Riverina Water uses pesticides / herbicides on land that has no potential for legal access, so is not considered to be a public place. An example of this



would be pipeline easement agreements between private land holders and Riverina Water.

The majority of pesticide use by Riverina Water consists of applying herbicides for weed control (primarily glyphosate) and the minor use of pesticides to control rodents and insects (primarily Rodex B and Solfac). Minor uses include applying pesticides to control certain insect pests within buildings and pits and baits to control rodents in and around buildings and pits.

**NOTE: The use of pesticides (Rodex B & Solfac) is confined to buildings and pit areas owned and operated by Riverina Water and not open or accessible to the public.**

#### **Pesticide/ Herbicide Use**

<b>Public places</b>	<b>Regular user groups</b>	<b>Level of use of public place</b>	<b>Type of pesticide / herbicide use</b>
<b>Road reserves</b>	Motorists, the general public, employees and / or contractors	Variable and seasonal - low in remote areas but the possibility of medium to high use in urban areas	Herbicides, (glyphosate)
<b>Road and rail easements accessible to the public</b>	Motorists, the general public, employees and / or contractors	Variable and seasonal – Low usage	Herbicides, (glyphosate)

#### **Notification Arrangements**

Riverina Water's normal method of notification will be to have a sign on the vehicle (weed spraying) advising that pesticide use is occurring. Information on the pesticide being used is available from the operator upon inquiry.

In accordance with clause 40 (1) (h) of the Pesticides Regulation, the operator will be able to provide the following information:



- the full product name of the pesticide to be used
- the purpose of the use, clearly setting out what pest or pests are being treated;
- the date/s or date range of the pesticide use
- the places where the pesticide is being used
- contact details for a Riverina Water officer who can discuss the notice, and
- any warnings regarding re-entry to or use of the place, if specified on the pesticide product label.

Operators will also carry the safety data sheet (SDS) relating to the pesticide in use.

No notice will be given for pesticide uses entailing small amounts of domestic-type pesticide products normally available in supermarkets in aerosol cans, baits, wands or hand-held spray bottles.

### Communication of Plan

Riverina Water will advise the community of this plan and its contents by:

- Having a copy of the plan available for viewing, free of charge, in our administration office at 91 Hammond Ave. Wagga Wagga, and
- Including a copy of the plan on Council's website. [www.rwcc.nsw.gov.au](http://www.rwcc.nsw.gov.au))

This Notification Plan will be reviewed every 4 years or when circumstances require a review.

The review will be published on Riverina Water's website to allow submissions from interested parties, and if needed a revised plan prepared.

### Contact Us

Anyone wishing to contact Riverina Water regarding this Pesticide Use Notification Plan can do so by contacting the CEO either via email on [admin@rwcc.com.au](mailto:admin@rwcc.com.au) or PO Box 456 WAGGA WAGGA NSW 2650

# R13 Code of Conduct Statistical Report to 31 August 2022

## Organisational Area Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** This report regarding the Code of Conduct statistical report to 31 August 2022 is provided to the Board for information as required under the Code of Conduct

**RECOMMENDATION** that Council note that the Riverina Water Code of Conduct statistical report from 1 September 2021 to 31 August 2022 has been lodged with the Office of Local Government with zero notifications or determinations for that period.

## Report

The Office of Local Government requires an annual lodgement of a Code of Conduct statistical report from start of September to the end of August the following year. Riverina Water has lodged its report for the 2021-2022 year as required.

The Board are advised that the report showed zero complaints, determinations or matters raised under the Code of Conduct during the period 1 September 2021 – 31 August 2022.

## Financial Implications

Not applicable.

## Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.

## R14 Request for sponsorship: Wagga Wagga Takes 2

### Organisational Area Corporate Services

**Author** Josh Lang, Customer and Communications Team Leader and Andrew Crakanthorp, Chief Executive Officer

**Summary** The Wagga Wagga Takes 2 charity event has approached Riverina Water for sponsorship, with the amount requested requiring the Board to determine in accordance with the Donations Policy.

### RECOMMENDATION that Council that Council:

- a) sponsor the 2023 Wagga Wagga Takes 2 event by way of sponsoring the "Golden Buzzer" award in the amount of \$9,000.
- b) Donate the ten tickets associated with the sponsorship to the Committee of one of the ten charities supported by the event;
- c) Determine which charity will receive the ten tickets.

### Report

Riverina Water has received a request for sponsorship from the 2023 Wagga Wagga Takes 2 charity event for \$10,000.

Eligible sponsorship requests greater than \$5000 are to be assessed by the Board as required by the Donations Policy. Riverina Water provided a \$2000 donation approved by the Chairperson and CEO under the Donations Policy for the 2022 event, with those funds being distributed equally to the nominated charities of the ten participants.

Wagga Wagga Takes 2 sees ten local celebrities compete on stage with local performers to raise money for their nominated charity. Fundraising events are also held in the lead up to the event.

The 2023 performances will take place on April 13 to 15. The organisers have indicated that the requested sponsorship would be distributed equally to the benefit the ten charities nominated by the 2023 local celebrities. The charities range from Wagga-based, to those having an impact across the region and further afield:

- Ronald McDonald House Wagga Wagga
- Rural Outreach Counselling
- Wagga Wagga Riding for the Disabled
- Amie St Clair Melanoma Trust

- Willans Hill School
- The Leisure Company
- BRASHA-T (Ataxia-telangiectasia research)
- Wagga Wagga Base Hospital Children's Ward
- Country Hope
- Sarah Lloyd Scholarship Fund (female apprentice scholarships)

Since 2007, the initiative has raised more than \$3M, including \$212,658 in 2022.

In addition to supporting the charities and fundraising, Riverina Water is offered the following sponsorship benefits:

- Guaranteed 10 x tickets (1 table) for Saturday night show
- Logo and link to website on our website and shared widely throughout social media platform
- Brand exposure and acknowledgment over the three, three-hour performances, which are historically sold out

In accordance with the sponsorship policy, Riverina Water would decline the ten tickets to the Saturday evening event, which would allow the organisers to sell the tickets to the general public and raise additional funds. Alternatively, Riverina Water could donate the tickets (and the table) to the committee of one of the charities befitting from the event.

This report recommends that Riverina Water increase its sponsorship in 2023 to a total of \$9,000 by way of sponsoring the "Golden Buzzer". The "Golden Buzzer" sponsorship allow the 3 judges to award \$3,000 to 3 different acts each night that feel are most deserving. The funds go directly to their overall fundraising. Sponsoring the "Golden Buzzer" allows naming rights for 2023. The "Golden Buzzer" will be explained at the opening of each night.

Sponsoring the "Golden Buzzer" would certainly increase the profile of Riverina Water at this event and also significantly assist the three charities that receive the nightly award.

More information on the event, charities and performers can be found at <https://www.waggawaggatakes2.com/>

### **Financial Implications**

Any sponsorship would be funded from the Donations budget, which currently has \$74,417.37 available.

This budget has typically been underspent in recent years due to COVID-19 limiting the number of events. Allocation of donations is a "first-come, first-served" with no further funding available when fully expended.

**Risk Considerations**

<b>Community Partnerships</b>	
Accept	When considering options for community partnerships or external party relationships, Council may choose to accept risks to maximise potential benefits to Council and the community.



## R15 First Nations artwork commission and branding extension

### Organisational Area Corporate Services

<b>Author</b>	Josh Lang, Customer and Communications Team Leader
<b>Summary</b>	Riverina Water is commissioning a First Nations artist to create and license a corporate artwork.

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**RECOMMENDATION** that Council receive and note the report.

### Report

At the 24 August 2022 meeting it was resolved that Riverina Water would develop its first Reconciliation Action Plan (RAP), in line with the action items in the recently adopted Business Activity Strategic Plan 2022.

The development of the RAP and the new Community Engagement Strategy has identified the need for new and expanded branding requirements.

Riverina Water staff have begun enquiries to commission a First Nations artist to complete an artwork that will be digitised and licensed for usage for marketing and branding purposes.

This would be utilised for the design of the Reconciliation Action Plan and then further expanded into future community engagement, branding and education activities. These may include corporate clothing, marketing materials, engagement collateral etc.

The brief for the artwork would refer to the organisation's important relationship and responsibility with river, waterways and groundwater; and the natural environment, including native species such as the platypus found next to Riverina Water's main site in Marshalls Creek.

The physical artwork would be hung in a prominent position in a building at Riverina Water's main site (likely the foyer adjoining the Pat Brassil AM Room).

As this will project will extend Riverina Water's corporate brand, the Board are advised of this change and will receive an information update on its progress.

### Financial Implications

Nil. A project cost of \$25,000 will be utilised by existing budgets (advertising, community engagement).

**Risk Considerations**

<b>Community Partnerships</b>	
Accept	When considering options for community partnerships or external party relationships, Council may choose to accept risks to maximise potential benefits to Council and the community.

# R16 Local Water Utility Dividend Consultation Paper

## Organisational Area Chief Executive Officer

**Author** Andrew Crakanthorp, Chief Executive Officer

**Summary** In response to requests by the local government sector, the NSW Government have commenced a review of local water utility dividend eligibility criteria, calculation methods and other requirements ('dividend requirements'). They are seeking responses to a recently released consultation paper.

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### RECOMMENDATION that the Board:

- a) Receive and note the report
- b) Note the consultation and collaboration with other County Councils with a view to submitting feedback on the Consultation Paper.

### Report

The Government advise that the objectives of the review are to identify improvements to local water utility dividend requirements to ensure that councils can receive an appropriate return on their efficient investment, while retaining sufficient funds in the water utility to allow it to cover its efficient costs and provide services to customers at suitable levels over time.

The review is not intended to compel local water utilities to pay dividends or to specify the level of dividends that should be paid (particularly as the optimal level of dividend payments will vary across local water utilities and over time). Rather, the government states, the review aims to remove any unnecessary regulatory impediments to paying dividends, while seeking to ensure that local water utility dividend payments do not come at the expense of efficient pricing or service levels to customers.

A copy of the paper is attached to this report. Management are participating in webinars and information sessions regarding the Consultation Paper and are also working in partnership with management at other County Council's in order to prepare a coordinated response to a series of specific stakeholder questions that have been posed in the Paper.

Submissions are due on 16 December 2022 and Riverina Water will make a submission. Council management note that provisions already exist for the payment of dividends (see Section 1 of the attached Consultation Paper).

Feedback from Board Member is sought at this meeting and will inform the response by Riverina Water. In overall terms, the Consultation Paper seeks to "relax" the eligibility criteria for the payment of dividends from surpluses and this welcomed.

The Government will make decisions on the feedback and amend the regulations (or not) as they see fit. The team working on the review has an ambitious timetable which includes presenting its draft findings, recommendations and summary of feedback received during consultation to The NSW Department of Planning and Environment (DPE) by end of January 2023. The same team then proposes to present the findings, recommendations, summary of consultation, feedback and an implementation plan for 2023/24 to DPE by February 2023.

At that time a further report can be presented to the Board with an update on any changes and management and the Board can consider the matter in further detail with an eye to the future implications and opportunities to pay or not pay dividends.

Riverina Water last considered this matter in 2015 following a request by Wagga Wagga City Council (WWCC) for Riverina Water to consider the payment of a dividend to WWCC. The report to the Board meeting in February 2015 is attached to this report. The Board of Riverina Water at that time resolved:

- a) Council defer any further action on the payment of dividends to Constituent Councils
- b) Council receive more information on Best Practice Compliance, and the restrictions on the payment of dividends, and
- c) Riverina Water advise Constituent Councils of the outcome of those investigations

It appears that remains the policy position of Council at this point in time.

#### › R16.1 Local Water Utility Dividend Requirements Consultation Paper November 2022



### Financial Implications

Pending any legislative changes that are adopted by the NSW Government in response to the outcomes of the review, there could be significant financial implications for Riverina Water in the future, although the information sessions to date have reinforced the desire of government for Water Utilities to retain their autonomy and independence in relation to their own policy settings for the payment of dividends.

### Risk Considerations

Financial	
Avoid	Council will endeavour to ensure that its financial sustainability is protected at all times and avoid proposals that may impact negatively.

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Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)



# Local water utility dividend eligibility criteria, calculation methods and other requirements

Consultation Paper

November 2022





# Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Local water utility dividend eligibility criteria, calculation methods and other requirements

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# Contents

<b>1.</b>	<b>Introduction.....</b>	<b>4</b>
1.1	Existing dividend requirements .....	4
1.2	Why dividends are important .....	5
1.3	Purpose of this consultation paper .....	7
1.4	The department is seeking feedback on this paper .....	7
<b>2.</b>	<b>Dividends from local water utilities .....</b>	<b>8</b>
2.1	Dividends paid by NSW local water utilities .....	8
2.2	The reasons why few local water utilities pay dividends .....	10
<b>3.</b>	<b>Dividend policy and principles .....</b>	<b>12</b>
3.1.	The regulation of local water utilities.....	12
3.2	The governance of dividends from other water utilities and sectors .....	13
3.3	Principles for governing NSW local water utility dividends.....	17
<b>4.</b>	<b>Tax equivalent dividend payments.....</b>	<b>18</b>
4.1	The rationale for tax equivalent payments .....	18
4.2	Current requirements for tax equivalent dividend payments .....	19
4.3	Proposed changes to tax equivalent dividend payments.....	19
<b>5.</b>	<b>Dividends from surpluses .....</b>	<b>21</b>
5.1	Eligibility criteria for dividends from surpluses .....	21
5.2	Calculation method and caps for dividends from surpluses.....	23
5.3	Information/reporting requirements for dividends from surpluses .....	27

# 1. Introduction

This Consultation Paper is the first stage of the NSW Department of Planning and Environment's (the department's) review of local water utility dividend eligibility criteria, calculation methods and other requirements ('dividend requirements').

The objectives of this review are to identify improvements to local water utility dividend requirements to ensure that councils can receive an appropriate return on their efficient investment, while retaining sufficient funds in the water utility to allow it to cover its efficient costs and provide services to customers at suitable levels over time.

The review is not intended to compel local water utilities to pay dividends or to specify the level of dividends that should be paid (particularly as the optimal level of dividend payments will vary across local water utilities and over time). Rather, this review aims to remove any unnecessary regulatory impediments to paying dividends, while seeking to ensure that local water utility dividend payments do not come at the expense of efficient pricing or service levels to customers.

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## 1.1 Existing dividend requirements

A dividend is a return on investment paid to the 'shareholder' of a business. In the case of local water utilities, the 'shareholder' is essentially the council (or constituent councils of a county council) responsible for investing in the utility's water supply and sewerage functions.

Under section 409 of the NSW *Local Government Act 1993* (the LG Act), a local water utility must use the revenue it receives from levying water and sewerage charges to provide water and sewerage services, although the council may receive a return on its capital invested in the utility (a dividend) and use this for any purpose allowed under the LG Act or any other Act.

Before taking a dividend, a council must comply with guidelines relating to the provision of water and sewerage services and any related directions issued by the Minister, and must indicate in an open meeting of the council that it has complied with the guidelines (and any related direction).

The guidelines are currently in the form of section 4 of the department's *Regulatory and assurance framework for local water utilities* (the Guidelines), July 2022.<sup>1</sup>

Under the Guidelines, a dividend from local water utilities comprises two parts:

- **A dividend calculated for tax equivalents** – i.e., the tax equivalent payments the utility makes to the council and recovers via its prices (consistent with the principles of competitive neutrality). The upper limit for such dividend payments from each local water utility is currently set at \$3 per assessment.
- **A dividend from the utility's surplus.** The utility's surplus is its income from operations (service availability charges, usage charges, grants for non-capital purposes, profit on the

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<sup>1</sup> NSW Department of Planning and Environment (DPE), *Regulatory and assurance framework for local water utilities*, July 2022, p 33-35.



sale of assets, other ordinary income, developer charges and contributions) less expenses from operations less depreciation, interest and dividends for tax equivalents.

For a dividend from the utility's surplus, the Guidelines also specify **eligibility criteria**, a **calculation methodology (including caps)** and requirements for the **provision of information** to the department, as outlined in Chapter **Error! Reference source not found.** of this paper.

## 1.2 Why dividends are important

Provided it does not come at the expense of efficient pricing<sup>2</sup> or appropriate service levels<sup>3</sup>, the payment of dividends by local water utilities can:

- **Enhance transparency and hence accountability around the performance of the utility's management in maximising efficiencies.** For instance, provided prices reflect efficient costs and service levels are maintained at appropriate levels, dividends can be an effective measure of the extent to which the utility has achieved operational efficiency, including the efficient use of its assets.
- **Allow the council to determine how to best use its return on investment rather than simply retaining it in the water utility.** This can promote the efficient use of capital, as the council can use its return on investment to generate the greatest benefit to the community. This could result in, for example, an improvement in the overall financial health of the council, enhancement of the non-water services the council can offer rate payers and/or a reduction in the general rates and other charges paid by ratepayers.
- **Promote efficient financing of capital expenditure.** Through a combination of debt and equity, there will likely be a lower cost means of financing capital costs than the local water utility relying solely on its retained surpluses (see Box 1 below).

Furthermore, to be consistent with competitive neutrality and National Water Initiative (NWI) pricing principles, local water utilities' prices should be set to allow for dividends (including a return on efficient investment). Specifically:

- To comply with National Competition Policy, the NSW Government has noted that Category 1 local government businesses<sup>4</sup> would be expected to generate a return on capital employed that is comparable to returns on capital for private sector businesses operating in a similar field, with the council retaining any dividend as the owner of the business.<sup>5</sup>
- Under the NWI, a water utility should achieve at least lower bound pricing and move towards upper bound pricing where practicable.<sup>6</sup> Among other cost items, lower bound pricing allows

<sup>2</sup> That is, dividends should not be the result of the utility setting prices to recover revenue above efficient costs, although efficient pricing (and the calculation of efficient costs) should allow for a benchmark return on efficient capital expenditure – see overview of National Water Initiative Pricing Principles in Box 5, Section 4.3 of this paper. The department will provide guidance on its expectations of how councils can achieve sound pricing to a reasonable standard as part of its *Regulatory and assurance framework for local water utilities*.

<sup>3</sup> That is, dividends should not be the result of the utility under-spending to the extent that services are or will be provided at levels lower than required by regulators or water and sewerage customers, considering customers' capacity and ability to pay. The department will provide guidance on its expectations of how councils can understand service needs to a reasonable standard as part of its *Regulatory and assurance framework for local water utilities*.

<sup>4</sup> Category 1 businesses have annual sales turnovers (annual gross operating income) of \$2 million and above.

<sup>5</sup> NSW Government Policy Statement on the Application of National Competition Policy to Local Government, June 1996, paragraph 4.21.

<sup>6</sup> Under the NWI, a water utility should achieve upper bound pricing if it services more than 50,000 connections.

for prices to be set to recover dividends “set at a level that reflects commercial realities and stimulates a competitive market outcome”. Upper bound pricing allows prices to be set to recover the cost of capital, calculated using a Weighted Average Cost of Capital – which includes provision for a return on equity.<sup>7</sup>

### **Box 1: Debt and equity financing**

Capital expenditure can be financed through a combination of debt and equity. Issuing debt or equity is associated with a cost in the form of providing a return to the debt or equity investors:

- The cost of debt relates to the return needed to compensate debt investors (which are different to the ‘shareholder’/council).
- The cost of equity is the return on equity investment paid to the ‘shareholder’ in the form of dividends, which compensates the equity investor for the opportunity cost of investment in the business.

Equity is typically the riskiest and, therefore, the most expensive form of finance because equity investors are remunerated only after all other expenses, debt investors and other obligations (for example, tax equivalent payments) have been made. Since shareholders have other potential uses for their funds, investing equity capital in a water utility has an opportunity cost to its shareholders. Heavy reliance on equity finance will mean that the opportunity cost incurred by the shareholders of the water utility (that is, the foregone uses to which that equity could have been put) would be relatively high.

Hence, if surpluses are retained by the water utility for the purpose of financing capital expenditure (rather than being paid to the council as dividends), the equity capital invested by the council in the water utility will accumulate, and the opportunity cost of those funds will also grow. That is, the water utility could have been financed more cheaply by paying out some dividends and undertaking some borrowing.

Debt finance, whilst typically cheaper than equity finance, also has limitations. The greater the amount of debt held by the water utility, the greater will be its debt servicing obligations, and the greater its exposure to the risk of default against those obligations. Since shareholders are paid only after debt investors, the greater the amount of debt taken on by the water utility (that is, the higher the level of financial leverage), the greater the water utility shareholder’s exposure to risk.

Therefore, there is typically a balance between the level of equity and debt finance that may be adopted by water utilities and the optimal capital structure for any entity – which represents the mix of debt and equity financing that maximises a business’s value while minimising its opportunity cost of capital (combination of the cost of debt and the cost of equity).

If councils (the ‘shareholder’) do not seek or expect a return on the equity they provide (that is, they do not seek or expect a dividend), this may ‘under-price’ equity compared to the cost of debt – which can distort decision-making regarding the optimal mix of debt and equity, as well as a range of other related investment and consumption decisions.

<sup>7</sup> 2004 COAG Intergovernmental Agreement on National Water Initiative.

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## 1.3 Purpose of this consultation paper

This Consultation Paper seeks stakeholder views on what dividend requirements (including dividend eligibility criteria, calculation methods, caps and related requirements) should be in place for local water utilities. In doing so, it provides relevant contextual information; outlines current criteria, methods and requirements for local water utility dividends; and seeks stakeholder views on potential changes to these criteria, methods and requirements.

This Paper is structured as follows:

- Chapter 2 outlines the extent to which local water utilities have paid dividends to their council shareholders, presents possible explanations for this level of dividend payments, and seeks stakeholder views on these explanations and the potential implications for dividend requirements.
- Chapter 3 discusses the regulation of local water utilities, provides an overview of the governance or requirements around dividends in other sectors, presents some proposed principles for governing NSW local water utility dividends to inform the assessment of potential changes to current requirements, and seeks stakeholder feedback on these principles.
- Chapter 4 presents current requirements around tax equivalent dividend payments and seeks stakeholder feedback on potential changes to these requirements.
- Chapter 5 outlines current criteria, methods and requirements for calculating and paying dividends from surpluses and seeks stakeholder views on potential changes to these criteria, methods and requirements.
- A consolidated list of stakeholder questions is provided in Appendix A.

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## 1.4 The department is seeking feedback on this paper

The department's Town Water Risk Reduction Program is seeking stakeholder views on what dividend eligibility criteria, calculation methods and other requirements should apply to local water utilities.

The department invites submissions in response to the questions and issues raised in this Consultation Paper, in addition to any other issues relevant to this review. Submissions are due by **Friday, 16 December 2022**. You can send your submission to [regional.town.water@dpie.nsw.gov.au](mailto:regional.town.water@dpie.nsw.gov.au)

## 2. Dividends from local water utilities

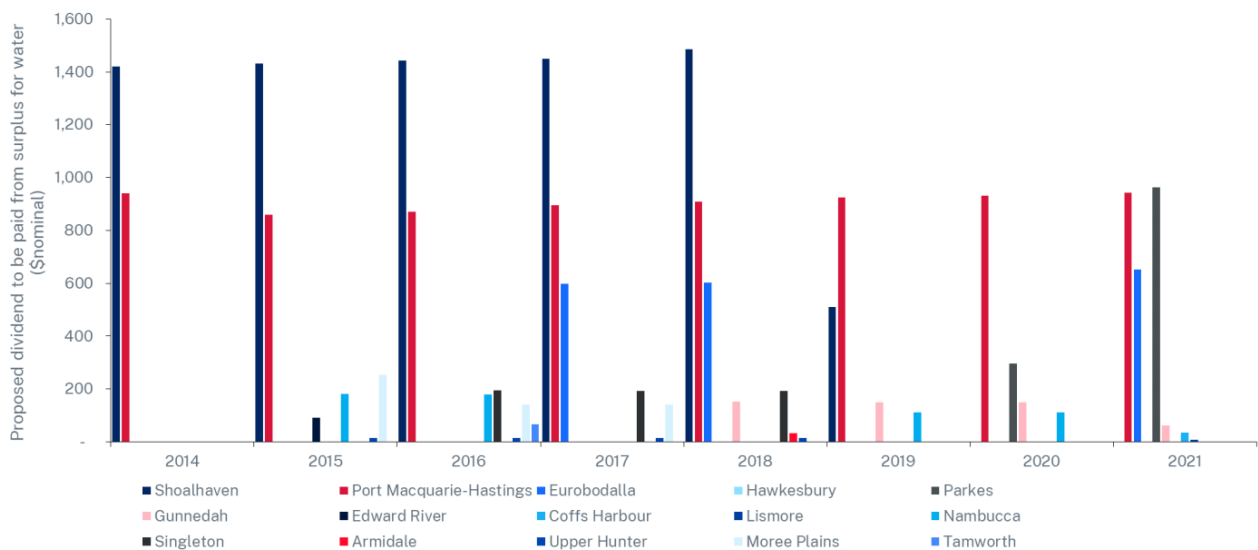
This chapter provides an overview of the extent of dividends paid by NSW local water utilities, and seeks stakeholder views on why only relatively few local water utilities pay dividends and the potential implications of this, if any, for changes that should be made to dividend requirements.

### 2.1 Dividends paid by NSW local water utilities

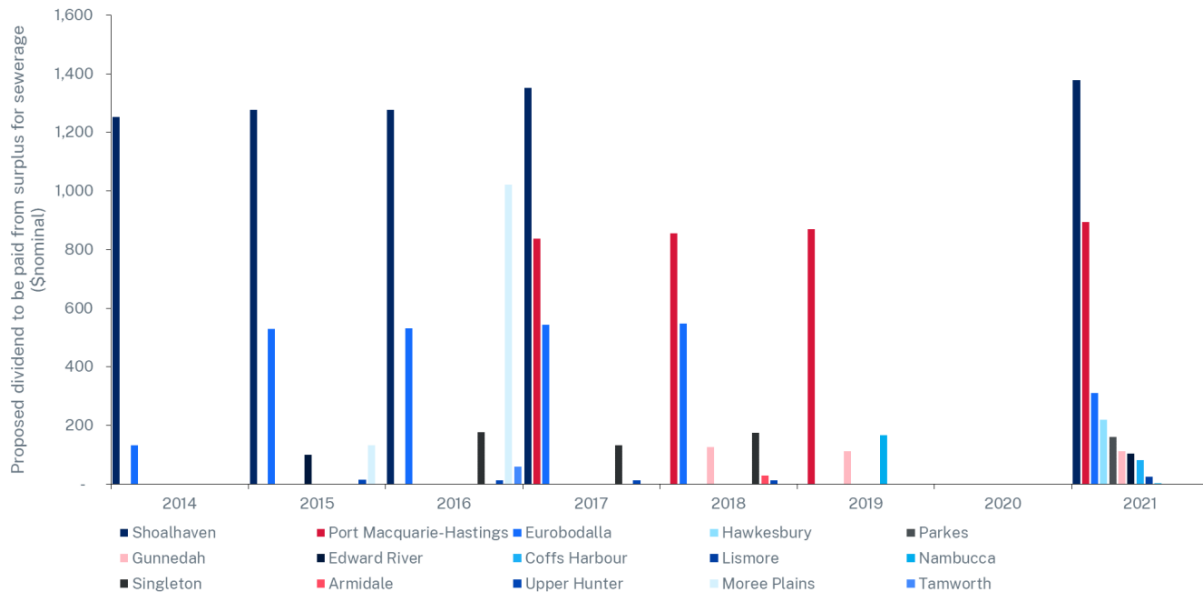
Very few local water utilities have paid dividends from surpluses to their council shareholder. For example, as shown in **Figure 1** and **Figure 2** only 15 of 89 council-owned local water utilities have paid a dividend from surpluses in the last eight years. Of particular note:

- The councils that have consistently, or close to consistently, paid dividends over the last eight years (such as Shoalhaven, Port Macquarie-Hastings and Eurobodalla) typically have a much larger number of connected properties (all three have more than 10,000 connected properties).
- No small (less than 1,500 connected properties) and very few medium-sized (less than 4,000 connected properties) councils have paid dividends over the last eight years (Edward River is the only medium-sized council to have paid dividends in the last eight years).
- A larger number of councils have paid dividends related to sewerage services than water services.

**Figure 1: Proposed dividend to be paid from water surplus (\$'000)**



Source: NSW Government, Local Water Performance Monitoring available here < <https://www.industry.nsw.gov.au/water/water-utilities/lwu-performance-monitoring-data> >

**Figure 2: Proposed dividend to be paid from sewerage surplus (\$'000)**

Source: NSW Government, Local Water Performance Monitoring available here < <https://www.industry.nsw.gov.au/water/water-utilities/lwu-performance-monitoring-data> >

This is not a recent occurrence. In 2006, for example, the *Independent Inquiry into the Financial Sustainability of NSW Local Government* (the Inquiry) noted that in 2003-04 only 10% of local water utilities complied with the then department's guidelines<sup>8</sup> and could thus pay a dividend.<sup>9</sup> In this context, it also reported that:

- Dividend requirements for local water utilities were considered more onerous than those applied to State-owned businesses.
- The department contended that comparison of local water utilities with State-owned businesses was inappropriate since state-owned enterprises are required to pay a dividend to another party (State Treasury) whereas councils, without Guidelines, would be able to strike their own dividends with impunity. However, the Inquiry was not convinced that councils would be less restrained in setting dividends than the NSW Treasurer, as excessive dividends to the councils would have a political cost.
- The department was confident that at least 70% of local water utilities would be compliant with the Guidelines and be eligible to pay dividends by 2009.

Significantly more local water utilities generate a surplus than are paying dividends. For example, in 2020-21, of the 69 local water utilities that reported information on their Net Profit After Tax (NPAT), 45 were in surplus (that is, had a positive NPAT). Specifically, of the local water utilities that reported their NPAT:

- 33% of small local water utilities were in surplus
- 58% of medium local water utilities were in surplus

<sup>8</sup> Then the NSW Department of Energy, Utilities and Sustainability (DEUS).

<sup>9</sup> *Independent Inquiry into Financial Sustainability of NSW Local Government* (2006), p.166.

- 67% of large local water utilities were in surplus
- 90% of major local water utilities were in surplus.

The above figures only relate to the payment of dividends from surpluses. There is limited information available on the extent to which councils pay tax equivalent dividends.

## 2.2 The reasons why few local water utilities pay dividends

There may be a range of reasons why a local water utility does not pay a dividend from its surplus to its council's consolidated fund, and these reasons may vary by council and over time. For example, reasons could include a combination of the following:

- **The local water utility does not generate a surplus from its supply of water and/or sewerage services.** In turn, this could reflect cost pressures in the supply of water and/or sewerage services, combined with revenue constraints. Many local water utilities serve geographically large areas with small and dispersed customer bases, which can mean relatively high costs to serve each customer. At the same time, customers may have limited capacity to pay cost-reflective prices (including a return on capital) – particularly those in socio-economically disadvantaged areas.
- **The local water utility (and its council shareholder) may prefer to retain earnings in the water utility to finance future capital investment (instead of debt financing) and/or mitigate any future price increases or revenue volatility.**
- **The dividend eligibility criteria, cap on dividends and/or other requirements may impede dividend payments,** either because:
  - the local water utility does not comply with the eligibility criteria – for example, very few local water utilities finalised an Integrated Water Cycle Management (IWCM) plan, which was one of the criteria<sup>10</sup> to qualify for a dividend payment under the department's *Best-Practice Management of Water Supply and Sewerage Guidelines* 2007 (which has now been replaced by the *Regulatory and assurance framework for local water utilities*); or
  - the compliance or regulatory burden of the eligibility criteria, cap on dividends and/or the other requirements may be considered too great.

Dividend requirements cannot determine the level of surpluses local water utilities generate, nor should they compel utilities to pay a specified amount of dividends, as the appropriate level of dividend payment is likely to vary case by case.

However, the governance or regulation of dividends can aim to remove any unnecessary regulatory impediments to paying dividends, while seeking to ensure that local water utility dividend payments do not come at the expense of efficient pricing or appropriate service levels to customers.

<sup>10</sup> Under the *Best-Practice Management of Water Supply and Sewerage Guidelines*, the criteria to be met to qualify for a dividend payment related to strategic business planning, pricing, water conservation, drought management, performance reporting and integrated water cycle management.

Therefore, a relevant consideration for this review is whether the current dividend eligibility criteria, caps on dividends and/or other requirements have unduly impeded the payment of dividends to local councils.

**Have your say:**

1. Why has your local water utility not paid a dividend from its surpluses? What determines whether it pays a dividend and, if so, how much?
2. Why do only a few local water utilities pay dividends from surpluses?
3. What, if any, implication does this have for our review of dividend requirements?

## 3. Dividend policy and principles

This chapter explains the rationale for regulating local water utilities, outlines the governance of dividend payments by other entities and presents proposed key principles for governing NSW local water utility dividend payments.

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### 3.1. The regulation of local water utilities

In a competitive market, a rate of return from which a business can pay dividends will only be sustainably earned if the business controls costs and provides adequate services over time to maintain or increase its market share relative to its competitors. If a business operating in a competitive market increases its prices above efficient levels simply to provide a return on investment or under-invests in the business at the expense of its services, it would lose market share – thus making such practices unsustainable.

Local water utilities should be subject to the same discipline. That is, their rates of return and dividend payments should only arise from prices reflecting efficient costs and supplying services to meet the needs and expectations of their customers. They should not be the result of the utility increasing its prices above levels that reflect efficient costs or earning a surplus from under-investment in the network.

However, local water utilities are generally natural monopolies – which means there is no competition to ensure that their prices reflect efficient costs and that service levels meet the needs of their customers. This suggests there is a case for some form of regulation or oversight of pricing and service levels to mimic the positive effects of competition – which, in turn, should ensure that dividends do not come at the expense of efficient pricing or appropriate service levels.

The department has recently published its *Regulatory and assurance framework for local water utilities*, which sets out the strategic planning outcomes it expects local water utilities to achieve to a reasonable standard – including outcomes related to pricing and service levels. Rather than being overly prescriptive, this framework seeks to be risk-based, outcomes-focused and proportionate, recognising that (unlike some other monopoly service providers) local water utilities are owned by local councils whose councillors are ultimately accountable to their constituents, which are largely comprised of customers of the water utility.

If efficient pricing and appropriate service levels are assured through the regulation and governance of local water utilities, thereby ensuring that dividend payments cannot come at the expense of these outcomes, we consider there is no need for restrictions on local water utility dividend payments. That is, provided local water utilities' prices reflect efficient costs and they supply water and sewerage services to their customers at appropriate levels, they (and their councils owners) should be allowed to determine their levels of dividend payments.



## 3.2 The governance of dividends from other water utilities and sectors

The section provides an outline of the governance of dividends in other sectors, including NSW State Owned Corporations (SOCs), other NSW Government owned businesses, SOCs and water utilities in other jurisdictions, and the broader economy (i.e., non-government owned businesses).

### 3.2.1 NSW State Owned Corporations (SOCs)

The NSW Government, as shareholder of the SOCs, expects SOCs to pay dividends annually. The amount of dividend paid is determined by an agreement between the shareholder and NSW Treasury, following a recommendation from the government business. At times, the shareholder can determine a dividend is not required. For example, this might occur when there is no surplus or a small surplus or when a large capital investment is expected in the near future. A guiding principle is that dividend payments should not be made at the expense of increased pressure on prices, service quality or the future reliability of the business.

The NSW Government benchmarks dividend payments at 70% of net profit after tax (NPAT) as a starting point for initial discussions, although the basis for this benchmark is unclear.

Unlike for local water utilities, SOCs are not subject to caps on dividends and dividends are paid regularly. However, dividends paid by SOCs seem to vary depending on the financial position of the SOC. Some examples of SOCs paying dividends include:

- Sydney Water's Statement of Corporate Intent reflects an intention to pay a dividend in FY2022, FY2023 and FY2024. The dividend payout ratio is forecast to be less than 70%, at 63%, 57% and 61% of NPAT, respectively.<sup>11</sup>
- Hunter Water's Statement of Corporate Intent reflects an intention to pay a dividend in FY2022, FY2023 and FY2024, with a target dividend payout ratio of 70% of NPAT.
- The Forestry Corporation's dividend policy specifies that dividends will equate to 70% of NPAT. Historically, it has met this target, although a dividend exemption was established to allow it to recover from the impact of the 2019-20 bushfires.<sup>12</sup>
- The NSW Port Authority Statement of Corporate Intent reflects an intention to pay dividends in FY2022, FY2023 and FY2024, with the dividend pay-out ratio reported as being 185%, 239%, and 149% of NPAT, respectively.<sup>13</sup>

An outline of the expectations of dividend payments from SOCs is presented in Box 2 below.

<sup>11</sup> Sydney Water (2021), Annual Report 2020-21, available at: <https://www.sydneywater.com.au/content/dam/sydneywater/documents/annual-report-2020-21.pdf> and Sydney Water (2021), Statement of Corporate Intent 2021-22, available at: [https://www.sydneywater.com.au/content/dam/sydneywater/documents/statement-of-corporate-intent\\_2021-22.pdf](https://www.sydneywater.com.au/content/dam/sydneywater/documents/statement-of-corporate-intent_2021-22.pdf)

<sup>12</sup> Forestry Corporation, Statement of Corporate Intent 2021-22, [https://www.forestrycorporation.com.au/\\_data/assets/pdf\\_file/0011/1377317/2021-22-Statement-of-Corporate-Intent-Forestry-Corporation-of-NSW.pdf](https://www.forestrycorporation.com.au/_data/assets/pdf_file/0011/1377317/2021-22-Statement-of-Corporate-Intent-Forestry-Corporation-of-NSW.pdf)

<sup>13</sup> NSW Port Authority (2021), Annual Report 2020-21, available at: <https://www.portauthoritiesnsw.com.au/media/5125/port-authority-annual-report-2021.pdf>

### **Box 2: Dividend expectations of SOC's and other government businesses**

SOCs are allowed to pay dividends under Section 14 of the State Owned Corporations Act 1989:

1. The board of a company SOC and the voting shareholders may agree that payments required to be made by the SOC or any of its subsidiaries in respect of dividends will be applied in the purchase of shares by shareholders in the SOC.
2. If any such payments are applied in the purchase of shares, the payments may be appropriated for that purpose without being paid into the Consolidated Fund.
3. Otherwise, dividends declared for a company SOC or any of its subsidiaries and payable to eligible Ministers are to be paid to the Treasurer for payment into the Consolidated Fund.<sup>14</sup>

The NSW Government expects government businesses to pay dividends annually, except where the shareholder determines a payment is not required (for example, if re-investment was needed to improve a balance sheet).<sup>15</sup> Dividend payments should not be made at the expense of increased pressure on prices, service quality or future reliability of the business.

Government expectations for dividend payments from SOC's and other government businesses are:

- Dividends are paid annually, except when the shareholder decides they are not required.
- Dividends should reflect shareholders' expectations or consideration in their forecast dividend profile and the annual dividend to be declared.
- The government business and shareholder should agree on a forecast dividend profile that covers the next ten financial years as part of the Statement of Intent and Business Plan process.
- The government business should determine the dividend payout ratio or an alternative approach to determining the forecast dividend profile. A ratio of 70% of Net Profit After Tax is commonly used as the initial reference point.
- For each financial year, the government business must recommend to the shareholder the dividend to be declared in a Dividend Recommendation Letter. The letter explains the determination of the dividend amount, which includes payout ratio or consideration of the Minimum Credit Rating and Target Capital Structure. Treasury advises the Government whether to accept the dividend or approve a different dividend. This agreed amount is reflected in the business's end-of-financial year statements.

The dividend scheme of the SOC also takes into consideration the agreed Target Capital Structure with NSW Treasury to maintain an efficient capital structure consistent with the Target Credit Rating (above Baa2/ BBB – Moody's/ Fitch or Standard & Poor's minimum credit rating, unless otherwise agreed with Treasury).

<sup>14</sup> NSW Government, State Owned Corporations Act 1989 No 134, Section 14, available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1989-134#sec.14>

<sup>15</sup> NSW Treasury (2021), NSW Treasury Policy and Guidelines TPG21-10 Capital Structure and Financial Distribution Policy for Government Businesses, available at: [https://www.treasury.nsw.gov.au/sites/default/files/2021-12/tpg2110\\_capital\\_structure\\_and\\_financial\\_distribution\\_policy.pdf](https://www.treasury.nsw.gov.au/sites/default/files/2021-12/tpg2110_capital_structure_and_financial_distribution_policy.pdf)

SOCs also pay tax equivalent dividends. Under the State Owned Corporations Act 1989, SOC must pay the equivalent amount of tax to Treasury that they would pay if they were liable to pay taxes, or an amount agreed between the SOC and the Treasurer. If the SOC does need to pay taxes, it is not liable to pay tax equivalents to the Treasury.<sup>16</sup> The Treasury Capital Structure and Financial Distribution Policy does not consider these payments to be financial distributions but rather expenses incurred by government businesses to align with competitive neutrality principles.

*Sources: NSW Treasury Policy and Guidelines PG21-10 Capital Structure and Financial Distribution Policy for Government Businesses*

### 3.2.2 Other NSW Government owned businesses

Other NSW Government owned businesses generally pay dividends if determined by the shareholders and NSW Treasury.

- For Public Non-Financial Corporations and Public Financial Corporations, the shareholder determines whether the business should pay a financial distribution, as communicated by Treasury. They should apply the dividend requirements for SOC's to the extent practicable.
- General Government Businesses pay a dividend if determined by Treasury. Some General Government Businesses with profits from commercial activities have arrangements whereby they return these profits to Treasury. These businesses pay distributions in lieu of dividends.
- Companies wholly owned by the Government and incorporated under the Corporations Act 2001 pay a dividend subject to the company's constitution and the Government's expectations on financial distributions from the company.<sup>17</sup>

### 3.2.3 Government owned water utilities in other jurisdictions

#### Queensland GOCs

Queensland's equivalent of SOC's, Government Owned Corporations (GOCs), are required to specify each year whether they will pay a dividend. As in NSW, the GOC's board recommends to the shareholding Ministers what the specific dividend payment should be (or if no dividend payment should be made). This is supported by the estimated profits for the financial year after the provision of tax.

For example, SunWater (a GOC) is required to determine whether to pay a dividend each year. Its dividend policy is stated in the Statement of Corporate Intent and it considers the return its shareholding Ministers expect on the government's investment. Recently, the Minister accepted the directors' recommendation to not pay a dividend, given large, expected costs for dam improvements in future years.

<sup>16</sup> NSW Government, State Owned Corporations Act 1989 No 134, Section 15, available at: <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1989-134#sec.15>

<sup>17</sup> NSW Treasury (2021), NSW Treasury Policy and Guidelines TPG21-10 Capital Structure and Financial Distribution Policy for Government Businesses, available at: [https://www.treasury.nsw.gov.au/sites/default/files/2021-12/tpg21-10\\_capital\\_structure\\_and\\_financial\\_distribution\\_policy.pdf](https://www.treasury.nsw.gov.au/sites/default/files/2021-12/tpg21-10_capital_structure_and_financial_distribution_policy.pdf)

## Victorian water utilities

Victorian water utilities are required to pay dividends to the State Government. The dividend amount is based on consultation between the utility's board, the Treasurer and the Portfolio Minister. This consultation considers the water utility's financial position and performance and the State's budget position.

In Victoria, the following benchmarks have been generally used:

- 50% of NPAT
- Dividends and income tax equivalent paid or payable of 65% of pre-tax profit.

Other factors which have also been considered include the views of the board, reported profit, liquidity, operating cash flow and forecast cash requirements of each business (including planned capital works), gearing and interest cover of the business, retained earnings and any other specific factors relating to individual businesses.<sup>18</sup>

## State Owned Enterprises (SOEs) of OECD-surveyed countries

The OECD found that most countries have established guidelines or targets to align dividend payout levels of State Owned Enterprises with private sector practices. They are expressed as either:

- broad guidelines identifying the factors that should be taken into account when establishing dividend levels
- dividends as an explicit percentage of net income, or
- the level of dividends required to maintain an optimal capital structure, as measured by the achievement of a target credit rating.

According to the OECD, the latter practice – implemented by Australia, New Zealand and Sweden – would presumably result in dividend levels most consistent with private sector practices. Fewer than half of surveyed countries have no dividend guidelines or targets in place, with dividends negotiated annually between SOE boards and the state shareholder, and not subject to guidelines. This OECD considers this could potentially hinder capital structure optimisation.<sup>19</sup>

### 3.2.4 The broader economy (i.e., non-government businesses)

Most businesses pay a dividend to their shareholders. Dividends can be paid in cash to shareholders or reinvested in the business. The company's board of directors decides whether to pay a dividend and how much. Most ASX-listed companies pay two dividends a year – an interim dividend and a final dividend.

In Australia, dividend payments are governed by the Corporations Act 2001 (see Box 3).

#### **Box 3: The Corporations Act 2001**

Under Section 254T(1) of the Corporations Act, a company must not pay a dividend unless:

<sup>18</sup> [https://researchoutput.csu.edu.au/ws/portalfiles/portal/11571766/11549005\\_Published\\_report\\_OA.pdf](https://researchoutput.csu.edu.au/ws/portalfiles/portal/11571766/11549005_Published_report_OA.pdf)

<sup>19</sup> The OECD, *Ownership and Governance of State-Owned Enterprises, A Compendium of National Practices 2021*

- the company's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend
- the payment of the dividend is fair and reasonable to the company's shareholders as a whole
- the payment of the dividend does not materially prejudice the company's ability to pay its creditors.

Sources: The OECD, *Ownership and Governance of State-Owned Enterprises, A Compendium of National Practices 2021*

Examples of ASX-listed companies' target payout ratios and actual payout ratios include:

- BHP's Board determined for 2021/22 that total cash dividends would be equivalent to a 77% payout ratio. BHP's dividend policy stipulates a minimum 50% payout of underlying attributable profit at every reporting period.<sup>20</sup>
- The Commonwealth Bank targets a full-year payout ratio of 70% - 80%. The FY2021 dividend was 71% of CBA's cash earnings.<sup>21</sup>
- NAB targets a dividend payout ratio of 65-75% on sustainable earnings, subject to circumstances at the time.<sup>22</sup> FY2021 dividends were paid out at a cash earnings ratio of 68.6%.

### 3.3 Principles for governing NSW local water utility dividends

Dividend payments should not be made at the expense of efficient pricing or service quality to customers.

We also consider that dividend requirements should not seek to prescribe the level of local water utility dividend payments, nor should they impose unnecessary restrictions, impediments or regulatory burden on the payment of dividends.

Rather, we consider that local water utilities should be allowed to make dividend payments where the utility or council can show that the utility's prices are efficient and its service levels to customers are appropriate.

#### Have your say:

4. What principles should be used to guide dividend requirements for local water utilities in NSW?

<sup>20</sup> BHP (2022), BHP results for the year ended 30 June 2022, and BHP, Shareholder FAQs, <https://www.bhp.com/investors/shareholder-information/faqs>

<sup>21</sup> <https://www.commbank.com.au/about-us/investors/dividend-information.html>

<sup>22</sup> NAB (2021), 2021 Annual Financial Report

## 4. Tax equivalent dividend payments

This chapter outlines the rationale for Tax Equivalent Regime (TER) payments, current requirements relating to these payments (as tax equivalent ‘dividends’) and potential changes to these requirements.

### 4.1 The rationale for tax equivalent payments

Principles of competitive neutrality require Category 1 local water utilities<sup>23</sup> to make tax equivalent payments to their local councils and to recover the costs of these payments via their water and sewerage prices, and for Category 2 local water utilities to do likewise where practicable.

Tax equivalent (or TER) payments should reflect the value of taxes that are not actually imposed on the local water utility because of its local council ownership, but which would be imposed if it was an equivalent privately owned business (see Box 4).

#### **Box 4:** Tax equivalent regime (TER) payments

The system of Tax Equivalent Regime (TER) payments requires a calculation of those taxes for which the council is not liable, but an equivalent privately owned business would be liable, consistent with the principles of competitive neutrality.

Once a calculation is made, a TER payment is made from the business activity to the owner of the business (i.e., the council). TER payments do not represent an actual cashflow outside the council, but nevertheless must be recognised through a payment from the business activity to the council.

All council Category 1 businesses are required to apply TER payments, with Category 2 businesses also required to apply these payments where practicable.

*Source: Department of Local Government, Pricing & Costing for Council Businesses, A Guide to Competitive Neutrality, p 19*

Tax equivalent payments are also recognised in the NWI’s pricing principles (see **Error! Reference source not found.**).

<sup>23</sup> Category 1 businesses have annual sales turnovers (annual gross operating income) of \$2 million and above.

**Box 5: National Water Initiative (NWI) Pricing Principles – Lower and Upper Bound Pricing**

Consistent with the NWI (agreed by COAG in 2004), a utility should set its prices to achieve:

- at least lower bound pricing and move towards upper bound pricing where practicable
- upper bound pricing if it serves more than 50,000 connections

Under upper bound pricing, a water business should not recover more than the operational, maintenance and administrative costs, externalities, taxes or TERs [tax equivalent regime], provision for the cost of asset consumption and cost of capital, the latter being calculated using a WACC [weighted average cost of capital] – which includes provision for the cost of debt and equity (that is, a return on equity).

Under lower bound pricing, to be viable a water business should recover, at least, the operational, maintenance and administrative costs, externalities, taxes or TERs (not including income tax), the interest cost on debt, dividends (if any) and make provision for future assets refurbishment/ replacement. Dividends should be set at a level that reflects commercial realities and stimulates a competitive market outcome.

*Source: National Water Initiative Pricing Principles, 2004.*

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## 4.2 Current requirements for tax equivalent dividend payments

The department's Guidelines state that:

*“All council-owned water supply or sewerage businesses must make a dividend payment for the amount calculated as the annual tax equivalent payment”; and the utility's “prices should be set so annual cost recovery by a council's water supply or sewerage business includes taxes or tax equivalents (excluding income tax).”<sup>24</sup>*

The Guidelines also note, however, that the upper limit for tax equivalent dividend payments from each of a council's water supply or sewerage businesses is set at \$3 per assessment.<sup>25</sup>

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## 4.3 Proposed changes to tax equivalent dividend payments

We do not consider there is a case for imposing a cap on tax equivalent dividend payments (below the local water utility's annual tax equivalent liability), given the principles of competitive neutrality.

Further, the basis or rationale for setting the cap at \$3 per assessment is uncertain. The previous (2007) guidelines stated that the reported tax equivalent expenses (excluding income tax) for most NSW local water utilities were under \$1 per assessment and that, accordingly, the upper limit for

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<sup>24</sup> NSW Department of Planning and Environment, *Regulatory and assurance framework for local water utilities*, p. 33-34, July 2022.

<sup>25</sup> NSW Department of Planning and Environment, *Regulatory and assurance framework for local water utilities*, p. 33-34, July 2022.

such dividend payments for each of a local water utility's water supply and sewerage business is set at \$3 per assessment.<sup>26</sup>

However, we seek stakeholder views on the question of a cap for tax equivalent dividend payments.

**Have your say:**

5. Should there be a cap on tax equivalent dividend payments, or should the cap be removed?
6. If there should be a cap on tax equivalent dividend payments, why and what should be the cap?

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<sup>26</sup> NSW Department of Water & Energy, *Best-Practice Management of Water Supply and Sewerage Guidelines*, August 2007, p 16.



## 5. Dividends from surpluses

This chapter outlines the rationale for dividends from surpluses, current requirements relating to these payments (including eligibility criteria) and potential changes to these requirements.

The utility's surplus is its income from operations (service availability charges, usage charges, grants and contributions for non-capital purposes, profit on the sale of assets, other ordinary income and developer charges) less expenses from operations less depreciation, interest and dividends for tax equivalents.<sup>27</sup>

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### 5.1 Eligibility criteria for dividends from surpluses

#### 5.1.1 Current criteria for dividends from surpluses

Under the current Guidelines, before taking a dividend payment from the surplus of the local water utility, a council must:

- calculate the dividend based on the income statement of the business activity in the council's audited special-purpose financial reports.
- be able to demonstrate there is a surplus in its water and sewerage business
- demonstrate full cost-recovery pricing and developer charges are in place for its water and/or sewerage business
- have in place effective, evidence-based strategic planning in accordance with section 3 of the department's *Regulatory and assurance framework for local water utilities*
- demonstrate that water supply and/or sewerage special-purpose financial reports are a true and accurate reflection of the business, with an unqualified financial audit report
- demonstrate that the overhead reallocation charge to the water and/or sewerage business is a fair and reasonable cost, with an independent audit report of cost allocation of the water and/or sewerage business.<sup>28</sup>

#### 5.1.2 Potential changes to eligibility criteria for dividends from surpluses

The current criteria are generally consistent with our view that dividend payments should be contingent on the utility setting efficient prices (prices recover no more than efficient costs) and delivering appropriate service levels.

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<sup>27</sup> NSW Government Department of Water & Energy, Best Practice Management of Water Supply and Sewerage Guidelines, August 2007, p 18.

<sup>28</sup> NSW Department of Planning and Environment, *Regulatory and assurance framework for local water utilities*, p. 34, July 2022.

For example, while section 3 of the department's *Regulatory and assurance framework for local water utilities* (the third criterion above) includes a broad range of strategic planning outcomes, the achievement of these outcomes to a reasonable standard would indicate that the utility is setting reasonable prices and providing services to an appropriate standard and there are adequate measures in place to ensure this continues for the foreseeable future.

Nevertheless, we are interested in stakeholder views on whether these criteria can be improved or streamlined, and what local councils should do to demonstrate compliance.

Potential criteria could be as follows:

***Before taking a dividend payment from the surplus of the council's water supply and/or sewerage business, the local council must be able to demonstrate:***

- ***there is a surplus in its water and sewerage business***
- ***the water and sewerage business has efficient pricing in place (prices recovering efficient costs, including developer charges) and is providing adequate levels of services to water and sewerage customers***

This could be satisfied by demonstrating that the water utility is achieving the strategic planning outcomes in Section 3 of the *Regulatory and assurance framework for local water utilities* to a reasonable standard.

- ***the financial reports of the business (water supply and/or sewerage) are a true and accurate reflection of the business, and that common costs (including overheads) are allocated in a reasonable way to the water and/or sewerage business.***

This could be satisfied with an unqualified independent financial audit report of the special-purpose financial statements for the water supply and/or sewerage business, confirming that these statements are a true and accurate reflection of the business and that cost allocation to the water and/or sewerage business is fair and reasonable.

We understand that such audits do not currently review the methodology to allocate common costs to the water and/or sewerage business, but simply confirm that the councillors and council management certify that the allocation is fair and reasonable.

We also note that guidance on the strategic planning outcome of sound pricing and prudent financial management (one of the strategic planning outcomes in section 3 of the *Regulatory and assurance framework for local water utilities*) includes expectations relating to cost allocation.

- ***the operational performance of the business (water supply and/or sewerage) is of a reasonable standard and meets the needs of customers***

The department would like to consider the inclusion of more specific operational performance as an eligibility criterion in the future. We accept that there is a lot to be taken into account before implementing this, including what is considered a reasonable standard, what performance indicators are used and how differences in a local water utility's operating environment are taken into account, for example.

We seek stakeholder views on the eligibility criteria and how to best demonstrate compliance with the criteria.

## 5.2 Calculation method and caps for dividends from surpluses

### 5.2.1 Current calculation method and caps

Under the current Guidelines, the dividend must be calculated based on the income statement of the business activity in the council's audited special-purpose financial reports (the department's dividend payment form<sup>29</sup> gives a step-by-step process for calculating the maximum dividend from surplus).

The payment of a dividend from the surplus of a local water utility is the least of the following conditions:

- the dividend from surplus must not exceed 50% of this surplus in any one financial year
- the dividend from surplus must not exceed the number of water supply or sewerage assessments as of 30 June of the relevant year multiplied by \$30 less the dividend for tax equivalents
- the total dividend from surplus paid in each rolling three -year period must not exceed the total relevant surplus in the same period (see **Figure 3** below).

Further, under the Guidelines, councils facing major capital expenditure for new or replacement water supply and/or sewerage infrastructure should defer paying a significant dividend from their surplus. Such capital expenditure in any financial year is defined as that which exceeds 3% of the current replacement cost of the council's water supply or sewerage assets.

<sup>29</sup> [https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0005/518774/PUB22-605-Dividend-payment-form-July-2022.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0005/518774/PUB22-605-Dividend-payment-form-July-2022.pdf)

**Figure 3:** Calculation of dividend from surplus

No.	Item	Amount (\$)
(1)	50% of 'Surplus before Dividends' (from audited Special Purpose Financial Report – Income Statement of Sewerage Business Activity)	
(2)	No. of assessments connected to sewerage multiplied by \$30/assessment, less Dividend for TE	
(3)	(a) Cumulative 'Surplus for dividend calculation purposes' for the 3 years to 30 June of the dividend year <sup>6</sup> .	Cumulative 'Surplus for dividend calculation purposes' for the 3 years to the dividend year less cumulative dividends paid for preceding 2 years prior to the dividend year [(a)-(b)]
	(b) Cumulative dividends paid for the preceding 2 years prior to the dividend year.	
(4)	Maximum Dividend from Surplus (least of (1) (2) and (3))	

Source: The department's Dividend Payment Form July 2022

## 5.2.2 Potential changes to calculation method and caps on dividends from surpluses

Below we consider three key issues related to the current calculation method for dividends from surpluses: caps and restrictions on dividend payments, the treatment of developer charges and the application of the Guidelines to County Councils.

### The caps and restrictions on dividends from surpluses

The justification for the above-mentioned caps on dividends from surpluses is unclear. As discussed above, SOCs do not have a cap on the size of dividends from surpluses. The NSW Government benchmarks dividends payments from SOCs at 70% of net profit after tax, but this is a starting point for discussions and SOCs can increase or decrease the payment based on their own prevailing circumstances.

We also consider that the restriction on councils facing major capital expenditure (with such capital expenditure defined as 3% of total asset replacement costs) is unnecessary and overly prescriptive. It is reasonable that councils facing major capital expenditure may elect to defer the payment of significant dividends. However, this is best considered by councils on a case-by-case basis, taking into account a range of factors such as the size and timing of the capital expenditure, the local water utility's existing levels of retained earnings, the council's level of debt and the volatility of the utility's costs and revenues.

Drawing on the approach of NSW SOCs, a potential reference point for dividend payments by local water utilities could be 70% of NPAT. However, whether the utility decides to pay dividends that are higher or lower than this in any given year would likely depend on a range of factors.

Box 6 below lists examples of factors that local water utilities may wish to consider in determining their dividend payment amounts. The box shows that it is difficult to be prescriptive, as there can be a range of utility-specific factors to consider.

#### **Box 6: Factors to consider when paying dividends**

The decision to pay a dividend and how much likely depends on the circumstances facing the local water utility, including:

- **Revenue and/or cost volatility:** a utility may decide to have a lower dividend payment and higher level of retained earnings to assist in managing significant revenue and/or cost volatility. On the other hand, if the utility's costs and revenues are relatively predictable, it may favour a higher dividend payment.
- **Level of existing retained earnings:** if the utility has a large amount of retained earnings, it may decide to pay a higher level of dividends.
- **Where the utility is in its expenditure cycle:** for example, if faced with a period of significant increases in expenditure requirements or lumpy expenditure, the utility may choose to reduce or not pay dividends to manage that expenditure and to meet any other obligations it may face (for example, the costs of servicing debt).
- **Debt to equity balance:** if a utility has little debt, there may be scope to increase its debt to equity ratio by paying a higher dividend. If the ratio is high and there is proportionally a large amount of debt, the utility may choose to reduce or not pay dividends.
- **Expectations of shareholders (the council):** the council's policies, fiscal position, strategic initiatives, general service objectives or challenges and capital investment programs may inform decisions on the level of dividends to be paid from the local water utility.
- **The local water utility's level of prices, service quality and/or reliability:** where warranted, the utility may be able to reduce its prices, or improve service quality and/or reliability by foregoing or reducing some payment of dividends.

If local water utilities can comply with eligibility criteria demonstrating efficient pricing and service outcomes, we see no basis for caps or restrictions on dividends from surpluses. We therefore propose removing the caps and restrictions on dividends from surpluses.

Removing caps and restrictions on dividends from surpluses would provide local councils and their utilities with the discretion to determine how much of the utility's surplus should be paid as dividends (while the eligibility criteria and information/reporting requirements should provide other stakeholders with assurance that dividends are not coming at the expense of efficient pricing and service outcomes).

### **The treatment of developer charges revenue**

Initial consultation suggested that some stakeholders were unclear about whether revenue from water and sewerage developer charges should be included as income when calculating a local water utility's surplus.

Like revenue from periodic water and sewerage prices, water and sewerage developer charges recover a share of the capital and operating costs of providing water and sewerage services to new

development. This includes an allowance for a return on the utility's capital investment in water and sewerage assets<sup>30</sup>, which is an economic cost of providing water and sewerage services.

The methodology local water utilities should use in setting their water and sewerage developer charges is outlined in the department's developer charges guidance, currently titled *2016 Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*.

In our view, there is no reason why revenue from developer charges should not be included as income when calculating a local water utility's surplus.

### Application to county councils

We consider the same dividend requirements should apply to county councils as to other councils, in terms of the dividends to apply to the county council in aggregate.

While the distribution of dividends between the constituent councils of county councils adds an element of complexity to the payment of dividends, it does not preclude the application of the same dividend requirements as to other councils.

In terms of how to distribute the dividends across the constituent councils, the current Guidelines state:

*"A county council may pay a dividend to its constituent councils on a pro-rata basis, based on the number of assessments."*<sup>31</sup>

This appears to be a reasonable and relatively simple way of allocating dividend payments across constituent councils. However, there are also other potential methods – for example, dividends could be allocated in proportion to each constituent council's level of capital investment or total expenditure in the water and/or sewerage business over a relevant time period (although this is likely to be related to number of assessments).

Hence, we are interested in stakeholder views on:

- whether individual county councils should be given flexibility as to how dividend payments are allocated across their constituent councils
- what allocation method or methods should be applied, if such methods are to be specified in the Guidelines.

We would also like to hear whether there should be any additional dividend requirements for county councils.

<sup>30</sup> Through the discount rate in the developer charges methodology (see: Department of Primary Industries, Water, *2016 Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*, June 2016).

<sup>31</sup> NSW Department of Planning and Environment, *Regulatory and Assurance Framework for Local Water Utilities*, p. 33-34, July 2022.

## 5.3 Information/reporting requirements for dividends from surpluses

### 5.3.1 Current requirements

Under the current Guidelines, a council wishing to receive a dividend from its water utility should give the department:

- the council's minutes resolving achievement of the eligibility criteria and its decision to pay a dividend, including the amount of the dividend
- a statement of compliance and statement of dividend payment
- a dividend payment form with its calculation of the maximum dividend
- its special-purpose financial statements for the dividend year
- an unqualified independent financial audit report for the water supply and/or sewerage business(es)
- an independent audit report verifying that overhead reallocation charges are fair and reasonable.

The department will assess the information supplied and the local water utility's current strategic planning assessment and pricing outcomes, and advise the council and/or the Minister of any non-compliance with the Guidelines.<sup>32</sup>

### 5.3.2 Proposed changes

The current information and reporting provisions appear aimed at ensuring that dividend payments are accurate and consistent with dividend requirements, including the eligibility criteria. This suggests they may need to change if the dividend requirements change. They may also depend on what is required for councils to demonstrate compliance with the eligibility criteria (see section 5.1.2).

Given stakeholder views on dividend requirements (including dividend eligibility criteria and caps), we seek comment on whether and, if so, how the current information/reporting requirements can be improved. For example, some stakeholders may consider some information/reporting requirements are unnecessary (and hence add unnecessary regulatory burden), whereas others may consider there is a case for additional or alternative information.

We note that if county councils are given flexibility as to how dividend payments are allocated across their constituent councils (discussed above), then an additional reporting requirement for county councils could relate to the allocation methodology used and the resulting dividend payment amounts to constituent councils. For example, this could be a requirement for an independent audit report verifying that the allocation of dividend payments across constituent councils is fair and reasonable, or simply a statement from the county council explaining the allocation method and amounts and supporting it as fair and reasonable. We are interested in stakeholder views on the

<sup>32</sup> NSW Department of Planning and Environment, Regulatory and Assurance Framework for Local Water Utilities, p. 35, July 2022.



merits of such requirements, including whether their benefits would exceed their costs and how they might work in practice.

## **Have your say on dividends from surpluses**

### **Eligibility criteria**

7. Can the current criteria for dividends from surpluses be improved? If so, how?
8. What are your views on the potential eligibility criteria presented in this Paper?
9. Should the eligibility criteria consider any other factors, such as operational performance; what do you think about that?
10. How could compliance with the eligibility criteria be best demonstrated?

### **Caps and restrictions on dividends**

11. Should the current caps and restrictions on dividends from surpluses be removed?

### **Calculation methodology**

12. Should revenue from developer charges be included in operating income when calculating a local water utility's surplus?

### **Apportioning dividend payments across county councils**

13. Should individual county councils be given flexibility as to how dividend payments are allocated across their constituent councils?
14. What method or methods should a county council be able to apply in allocating dividends across its constituent councils, if such methods are to be specified in the Guidelines?
15. Should there be any additional dividend requirements for county councils?

### **Information/reporting requirements**

16. Can the current information/reporting requirements be improved to promote efficient dividend outcomes?
17. If individual county councils are given flexibility as to how to allocate dividend payments across their constituent councils, what if any assurance or reporting requirements should apply to these payments?



# A. Summary of stakeholder consultation questions

The table below provides a full list of the questions raised in this Consultation Paper. We invite stakeholders to respond to these questions and to raise any other issues relevant to this review.

**Table 1: Summary of consultation questions**

Summary of stakeholder consultation questions	
<b>Dividends from local water utilities</b>	
1.	Why has your local water utility not paid a dividend from its surpluses? What determines whether it pays a dividend and, if so, how much?
2.	Why do only a few local water utilities pay dividends from surpluses?
3.	What, if any, implication does this have for our review of dividend requirements?
<b>Dividend requirements and principles</b>	
4.	What principles should be used to guide dividend requirements for local water utilities in NSW?
<b>Tax equivalent dividend payments</b>	
5.	Should there be a cap on tax equivalent dividend payments, or should the cap be removed?
6.	If there should be a cap on tax equivalent dividend payments, why and what should be the cap?
<b>Dividends from surpluses</b>	
7.	Can the current criteria for dividends from surpluses be improved? If so, how?
8.	What are your views on the potential eligibility criteria presented in this Paper?
9.	Should the eligibility criteria consider any other factors, such as operational performance; what do you think about that?
10.	How could compliance with the eligibility criteria be best demonstrated?
11.	Should the current caps and restrictions on dividends from surpluses be removed?

Summary of stakeholder consultation questions	
12.	Should revenue from developer charges be included in operating income when calculating a local water utility's surplus?
13.	Should individual county councils be given flexibility as to how dividend payments are allocated across their constituent councils?
14.	What method or methods should a county council be able to apply when allocating dividends among its constituent councils, if such methods are to be specified in the Guidelines?
15.	Should there be any additional dividend requirements for county councils?
Information/reporting requirements	
16.	Can the current information/reporting requirements be improved to promote efficient dividend outcomes?
17.	If individual county councils are given flexibility as to how to allocate dividend payments across their constituent councils, what if any assurance or reporting requirements should apply to these payments?

Source: The department

# R17 One Organisation: The Way Forward

**Organisational Area** Chief Executive Officer

**Author** Andrew Crakanthorp, Chief Executive Officer

**Summary** The Boards of Riverina Joint Organisation and REROC have written to Council and provided an update in relation to their future operation and activities as they relate to regional collaboration. This report provides an update on those decisions.

**RECOMMENDATION** that Council receive and note the report and continue its membership of Riverina Joint Organisation as an Associate Member.

## Report

Riverina Water Council has been considering this matter for the least three years following the establishment of the Riverina JO. Riverina Water remains an Associate Member of the Riverina JO having resigned its membership of REROC in July 2021.

The Boards of both organisations on the 28 October 2022 resolved that REROC continue to operate on a stand-alone basis and the Riverina JO would go into hiatus. The resolution of the JO Board was not unanimous with Wagga Wagga City Council voting against the decision, while the decision of the REROC Board was unanimous.

As an associate member of Riverina JO, Riverina Water was not entitled to vote on the matter. The attached letter provides considerable context to the matter.

The decision effectively means that Riverina Water will attend (but not vote at) the minimum four meetings that the JO is required to have. It is not expected that the meetings will have any substance (apart from dealing with matters that are compliance related).

There is no reason for Riverina Water to respond to the attached letter.

Riverina Water also considered this matter at its meeting in August this year when it resolved to provide its support to the offer by Wagga Wagga City Council to maintain the RivJO at the sole cost of Wagga Wagga City Council.

A further report will be provided to the February meeting of the Board should there be further developments in relation to regional collaboration (including any response by the NSW Government to the decision to place the Riverina JO in hiatus).

› **R17.1 One Organisation Letter**  

### Financial Implications

There are no financial implications associated with the recommendation.

### Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.



RIVERINA EASTERN REGIONAL  
ORGANISATION OF COUNCILS



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1 November 2022

Cr T Koschel  
Chairman  
Riverina Water County Council  
PO Box 456  
WAGGA WAGGA NSW 2650

Via email: [acrakanthorp@rwcc.nsw.gov.au](mailto:acrakanthorp@rwcc.nsw.gov.au)

Dear Tim,

### The Way Forward: One Organisation

I am writing on behalf of the Boards of the Riverina Joint Organisation and REROC to advise that the final steps in the resolution of the One Organisation issue for councils in the eastern Riverina is nearing finalisation.

As you know we wrote to all Member Councils at the end of August setting out four options that both Boards had agreed on in relation to the One Organisation question. The options were as follows:

1. REROC Stand Alone/JO Folds
2. JO Stand Alone/REROC goes into Hiatus
3. REROC Stand Alone/ JO is Operated by Wagga Wagga City operating separately from each other
4. REROC Stand Alone/JO goes into hiatus

Each Member was asked to nominate their first and second preferences in relation to the above options by the end of September, the results of which are contained in **Attachment One**.

A joint meeting of the JO and REROC Boards was held on 14 October to discuss the Member preferences. At that meeting an agreement was reached by the majority of Members that a recommendation be made to the JO and REROC Boards for the adoption of Option 4 (REROC Stand Alone/JO goes into hiatus).

On 28 October, both Boards at separate meetings, resolved to adopt Option 4, REROC Stand Alone/JO goes into hiatus. The resolution of the JO Board was not unanimous with Wagga Wagga City voting against it, the REROC Board resolution was unanimous.

The JO Board's resolution was as follows:

1. From 1 July 2023 the Riverina JO will go into hiatus.
2. After 31 December 2022, the Riverina JO take on no new projects

3. That the Treasurer and CEO prepare a budget for the 2023/24 year based on the JO fulfilling its compliance obligations.
4. The Treasurer and the CEO determine how administrative support will be provided to the JO and the costs involved.
5. That Riverina JO write to each Member Council to formally advise of the decision to adopt Option 4, the outcomes of same and seek formal endorsement of the decision from each Member Council by the end of November.

The REROC Board's resolution was as follows:

1. From 1 July 2023 REROC will deliver the three core functions of the JO:
  - Regional Planning
  - Advocacy and Lobbying and
  - Intergovernmental Relations
2. The Treasurer and CEO prepare a budget for the 2023/24 year based on the budget and assumptions used in the Way Forward decision-making.
3. The Treasurer and the CEO determine how administrative support will be provided to the JO and the costs involved.
4. That REROC write to each Member Council to formally advise of the decision to adopt Option 4, the outcomes of same and seek formal endorsement of the decision from each Member Council by the end of November.

Both Boards agreed that the Joint Organisation should continue to operate until the end of the current financial year to enable it to complete the OLG-funded Capacity Building project. Further, it has been agreed that no new projects will be undertaken by the JO after 31 December 2022 to ensure that there would be no obligations that would need to be fulfilled after 30 June 2023.

As you are aware the move to place the JO in hiatus means that it will continue to “exist”, with its current membership in place. Therefore, the JO will be required to fulfil some minimum obligations such as an audit, four meetings a year and compliance obligations such reporting on Pecuniary Interests. The only business to be conducted at the JO Board meetings, will be related to audit and compliance obligations. There will be costs involved in this and the Treasurer and CEO have been charged with determining a budget for the work. In order to avoid duplication, it is anticipated that REROC will undertake the secretariat activities.

From the 1 July 2023 the activities that REROC handed to the JO in October 2018 will revert to the ROC. This means all advocacy and lobbying, regional planning activities and intergovernmental relations will again fall within REROC's area of responsibility.

The Treasurer, the CEO and the REROC Executive will develop a budget for the operation of the ROC which will reflect the structure and budget that was developed to inform the One Organisation discussion.

REROC currently works closely with other JOs and regional organisations in the State for example on the Southern Lights Project, the Best Practice in Aggregated Procurement and the proposed Disaster

Risk Reduction project and we do not anticipate the decision will result in any changes to those relationships.

As you are aware Wagga Wagga City Council and Riverina Water County Council resigned from REROC in 2019 and 2020 respectively. In the light of the One Organisation decision, the REROC Board would welcome both organisations re-joining the ROC, however this is a matter for Wagga Wagga and Riverina Water to address.

The Boards of both organisations are now seeking endorsement from the Member Councils of the decision to adopt Option 4 and the actions that flow from that decision. We are seeking advice from Member Councils by the end of November in order to finalise matters in relation to the One Organisation issue at the JO and REROC Board meetings, to be held on 9 December 2022.

Thank you for your commitment to this extended process that will hopefully reach its final resolution by the end of the year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rick Firman', followed by a period.

Cr Rick Firman *OAM*  
Chairman  
REROC and the Riverina JO

## ATTACHMENT ONE

Council Name	Option 3			
	Option 1 REROC Stand Alone/JO Folds	Option 2 JO Stand Alone/REROC goes into hiatus	REROC Stand Alone/JO Operated by Wagga Wagga City Operating separately from each other	Option 4 REROC Stand Alone/JO goes into hiatus
Bland	2			1
Coolamon	2			1
Cootamundra- Gundagai	Will Support Majority Decision			
Greater Hume	2			1
Junee	2			1
Lockhart			1	2
Temora	1			2
Wagga Wagga			1	
Goldenfields Water	1			2
Riverina Water		2	1	



## R18 Budget for Electrical Design Work

### Organisational Area Engineering

**Author** Christopher Moosbrugger, Project Engineer

**Summary** Riverina Water plans to demolish some of the original Water Treatment Plant (WTP) building at 91 Hammond Ave during the 2026/27 financial year. The demolition project will require modification and augmentation of the existing electrical infrastructures. This report provides justification to bring forward funding from the 2026/27 budget for the electrical design.

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**RECOMMENDATION** that the Board brings forward \$90,000 from the 2026/27 budget during the Quarterly Budget Review (QBR) in February 2023, for demolition of buildings of little significance. This budget will enable the design of the electrical infrastructure required for ongoing use and repurposing of the original Water Treatment Plant buildings.

### Report

#### Background

The 2014 Conservation Management Plan (CMP) report was developed to aid in the long-term management of heritage assets on Riverina Water's Hammond Avenue site. The CMP report identified the significance of buildings from a range of little through to high.

High significance is identified as "major elements that provide evidence of important developments on the site that attribute to the items significance."

Little significance is identified as "added or heavily altered elements which detract from significance and/or may obscure significant elements."

The original WTP buildings that have been identified as being of little significance were constructed between 1920 and 1980. These buildings are in poor condition, have termite damage and need to be demolished.

Before any demolition can commence, existing electrical infrastructure for the original WTP buildings needs to be relocated. Electrical design is required to determine how to construct the electrical infrastructure and allow the work to be undertaken prior to related projects and demolition in 2026/27.

One of the buildings to be demolished is the Koorringal pump house which is the location of the main switchboard (MSB) that supplies power to all of the original WTP building as well as the Sludge Treatment Plant that services the recently constructed WTP.

Demolition of the buildings (with little significance) cannot proceed until the main switchboard is relocated. This switchboard is supplied by a 1500 KVA substation (NW Sub) in the northwest corner of the site. The NW sub is also in close proximity to the buildings to be demolished.

### Considerations

Augmenting electrical infrastructure is complex so it is prudent to consider the future plans for the site. Other considerations made in scoping the electrical design work include:

- The current location of the MSB and NW Sub are a significant distance from the main load which is the sludge treatment plant.
- The MSB and the NW Sub are lightly loaded (currently the max load is approximately 300 KVA) but due to its location (western boundary of the site) it is difficult to utilise the remaining capacity.
- The 1500 KVA transformer that supplies power to the clearwater storage (CWS) switchroom is nearing maximum capacity and with plans for the Bomen pump to be constructed in a few years, additional power may be required.
- The solar pilot plant project requires running two new High Voltage Cables between the CWS substation and the NW Sub.

### Scope of Work

Taking the above considerations into account, the electrical design scope will include:

- Moving NW Sub to the southern side of the centrifuge building
- Installing a new MSB in the Centrifuge building
- Running cables between the new location of the NW Sub and the new MSB
- Running cables between the new MSB and the existing board in the centrifuge building.
- Installing a new sub-board in the original WTP to supply light, power and HVAC.
- Running cables between the new sub board in the original WTP and the new MSB in the centrifuge building.

### Advantages

The proposed electrical design will:

- Bring the high loads closer to the transformer.
- Improve utilisation of the remaining capacity of the transformer by moving it closer to the centre of the site. This could be for the future Bomen pump station, electrical charging infrastructure for vehicles and WTP upgrades.

- Reduce the construction costs and complexity of connecting the NW Sub to the solar pilot plant microgrid.

### Financial Implications

Earlier than planned expenditure of \$90,000 from the 2026/27 budget.

### Risk Considerations

Projects	
Accept	Council will accept risk relating to projects by choosing options most likely for successful delivery with a reasonable degree of protection.

# R19 Employee participation in Sindhuli Nepal Project Team - Partnering with South Wagga Wagga Rotary

## Organisational Area Engineering

**Author** Bede Spannagle, Director of Engineering

**Summary** Riverina Water has been approached by the South Wagga Rotary Club (SWWC) to participate in their 2023 support program to Nepal.

## RECOMMENDATION that the Board:

- a) Note the report;
- b) Acknowledge the ongoing partnership with South Wagga Wagga Rotary and the mutual benefits with our employee leadership program participating in suitable aid projects; and
- c) Support the 2023 participants, Virginia Ricardo and Brenton Pitman in the program as outlined in the report.

## Report

Since 2018, Riverina Water has partnered with SWWC on several aid projects in Sindhuli and Banepa in Nepal. Initially, the projects involved the supply of clean drinking water to projects that SWWR was involved in, and technical support/advice for a project partnering with Kamalamai Municipal Council. This work dovetails well with our membership and participation in WaterAid, and WaterAid Nepal was a partner in the first project we participated in, along with Kamalamai Municipal Council.

The following staff have participated in the program to date;

**2018** Bede Spannagle - Janamaitri villages water supply project assisting Kamalamai Municipal Council.

**2019** Rodney Price - Sindhuli Primary School kitchen and clean drinking water project.

**2020** Stephen McIntyre – Sindhuli Institute of Technology nursing facility electrical instal.

The program was suspended during Covid and will recommence in 2023 with a team of 18 volunteers heading to Sindhuli for two weeks in February 2023. The project on this occasion is to complete the fitout of the nurse's accommodation at the Sindhuli Technical Institute.

Two employees from Riverina Water have volunteered their time to participate in the team. Virginia Ricardo and Brenton Pitman will travel to Sindhuli, Nepal in February next year for 2

weeks with a team of 16 other volunteers, to complete the fitout of the recently constructed nurse's accommodation at the Sindhuli Technical Institute.

Virginia and Brenton will also have an opportunity to meet the two engineering exchange students from the Institute that Riverina Water and Wagga Wagga City Council are expecting to host later in 2023.

The rewards for Riverina Water and the participants are significant. The participants experience a vastly different work environment that requires teamwork, leadership skills, initiative, self-motivation, patience and persistence like no other situation they've experienced before.

Previous participants have described the camaraderie and teamwork that develops within the team along the journey, along with hard work and "weird and wonderful food". All participants have appreciated the opportunity and expressed a deep sense of pride in both themselves and Riverina Water for the contribution they've made to the Sindhuli and Nepalese community.

### **Financial Implications**

The employees volunteer their time to participate in the program. For this project it requires 12 days of annual leave. They provide their own spending money, some meals, and transfers within Australia.

Rotary Australia World Community Services (through South Wagga Wagga Rotary) coordinate the program, arrange all logistics and transfers in Nepal and provide insurance for the volunteers.

Riverina Water sponsors the employees for flights, accommodation and some meals. On this occasion, the cost is \$2,950 per participant. This cost can be accommodated within the existing donations/sponsorship budget.

### **Risk Considerations**

<b>Community Partnerships</b>	
Accept	When considering options for community partnerships or external party relationships, Council may choose to accept risks to maximise potential benefits to Council and the community.

## R20 Review of Engineering Structure

### Organisational Area Engineering

**Author** Bede Spannagle, Director of Engineering

**Summary** The report presents an amended organisation structure within the Engineering Directorate for the Boards consideration.

**RECOMMENDATION** that the Board endorse the attached organisation structure noting the changes to the two Engineering Managers positions.

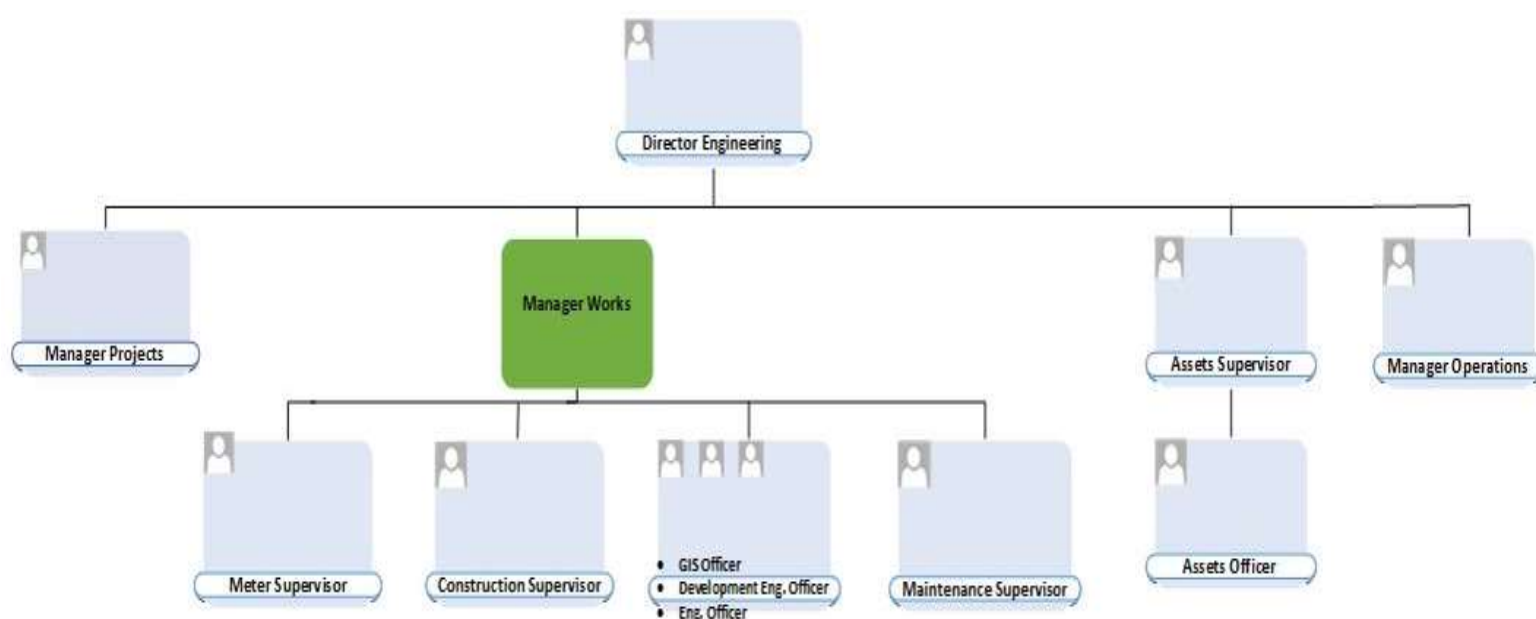
### Report

#### Background

With the recent resignation of the Manager Works within the Engineering Directorate, the opportunity was taken to review the structure whilst the position was vacant.

Eighteen months ago, the Assets Team was created to place a particular focus on asset management for the organisation. The functions of GIS and development engineering remain closely linked with assets, so the assets team was also included in the review. The analysis involved looking at how the assets team was performing, and what opportunities were available to ensure an effective and efficient structure was in place to capitalise on future changes to the way Riverina Water deliver services to our customers.

#### Existing Structure



## **The Changes and Impacts**

- Proposed new structure (please see below)
- A new position - Manager Assets & Support Services
- Removal of the position of Asset Supervisor
- Modifications to the Manager Works position.
- Re-evaluation of both the proposed manager positions to reflect the changes.
- Three positions will have a different reporting supervisor.

## **Reasoning behind the proposed structure.**

### **GIS/Drafting Officer**

With the move to ESRI as part of the ERP transformation, a closer link between GIS and Assets will be required, and a deeper and broader understanding of the datasets will be required. GIS working more closely with Assets, will encourage significant two-way knowledge transfer between the current staff, creating a skills and knowledge overlap of the two systems.

### **Development Engineering Officer**

The development engineering function is mostly independent work, and there is already a close linkage with Assets in the assessment of the existing network, hydraulic modelling where necessary, and the creation of new assets being handed over by developers.

This position could easily sit in Works or the Assets area.

### **Engineering Officer**

Most of the Engineering Officer tasks are for the Works area, however there are opportunities to expand this role into the broader area of the Engineering Directorate generally.

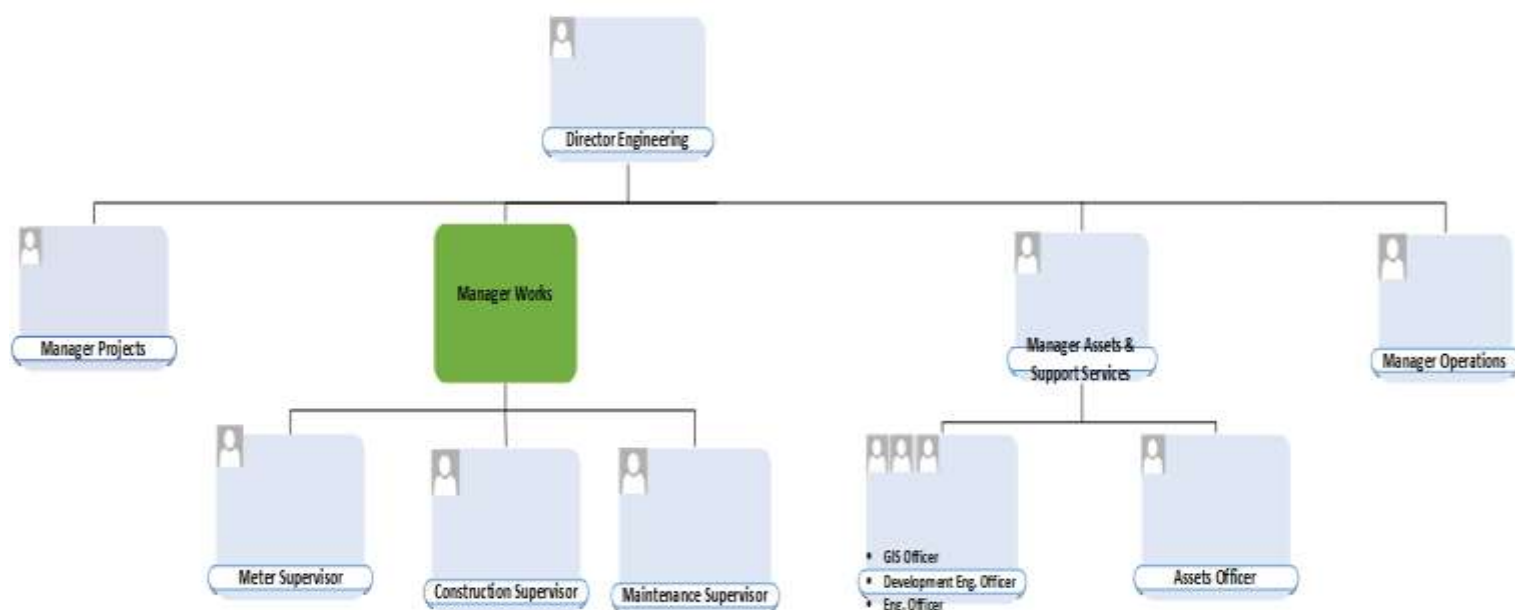
When these factors are considered, the opportunity to group these functions together makes common sense. It also highlighted the need for a more focused Manager on the Works area without the peripheral functions undertaken by the three positions described briefly above.

The opportunity to put more focus on the fundamentals of works such as capital works project management, operational works planning, monitoring performance and quality are all areas that a more focused structure will provide for the respective supervisors.

The proposed transition to a digital meter fleet will also require greater time dedication from the Manager Works to support the Meter Supervisor deliver this project.

So, with all that in mind, it leads to an 'engineering support' functional area and a purely works focused area. Hence, the proposed structure, see below.

## Proposed Structure



## Communications Plan

Stakeholder	Needs	How informed & consulted	Who
Board	The changes improve council's ability to respond to internal and external customers as well as enabling greater focus on the works area.	Board meeting 14 December - briefing	DE/CEO
CEO	For the change to be understood,  Understand any industrial relations issues,  Support of Board and Executive to improve the organisation even though it means change. For the process to be fair and transparent	Managing Change Plan including a Communications Plan  Implement this Communications Plan	DE
Impacted staff	To be treated fairly in accordance with the Award, legislation, policy.  To have options that will minimise any negative impact on them.	Communications Plan  Consultation with staff will outline options if	DE, HR



	To be given opportunities within the organisation to grow their career and enhance their skills and contribution.	relevant.	
Consultative Committee	To be consulted in accordance with the Enterprise Award	SCC Meeting 24 November and follow up as required.	DE, HR
Unions	To be notified and given an opportunity to provide feedback	Letters to Union	DE to draft for CEO approval
Other staff	To understand the change and the reasons  To support their colleagues	Consultative Committee reps to advise their constituents	DE

### Financial Implications

As the Manager Works position has been assessed two grades below its existing grading and the Manager Assets and Support Services has been assessed 4 grades higher than the existing position, the net result is a negligible increase which can be accommodated in the existing budget areas.

### Risk Considerations

Human Resources/People Management	
Accept	Council will accept risks in developing its Human Resources program/s to ensure attraction of the most suitable applicants for positions and retention and development of staff.

## R21 Works Report covering October 2022

### Organisational Area Engineering

**Author** Bede Spannagle, Director of Engineering

**Summary** This report provides an overview of water usage, connections, maintenance and water quality matters from 1<sup>st</sup> to the 31st October 2022.

**RECOMMENDATION** that the Works Report covering October 2022 be received and noted.

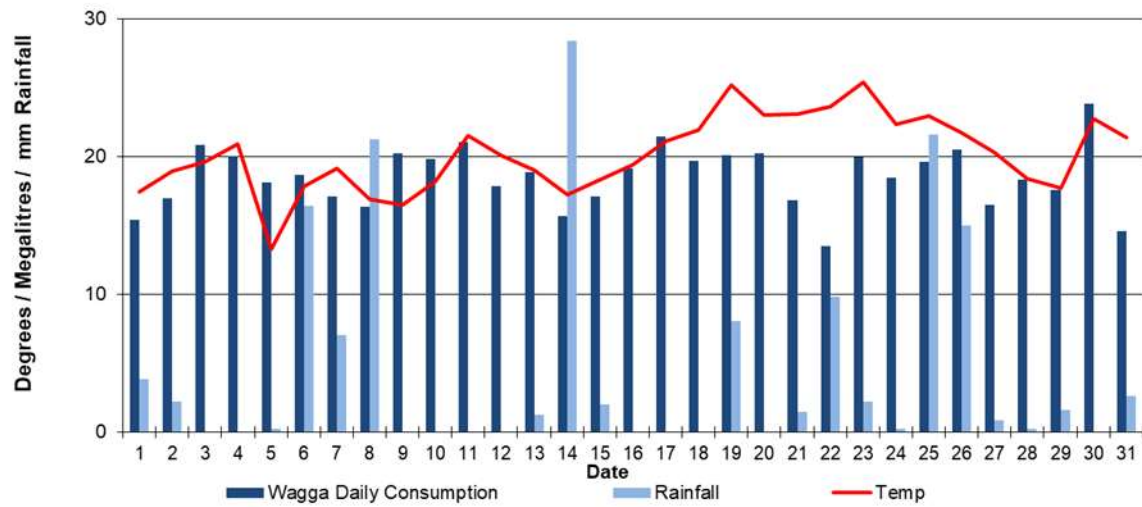
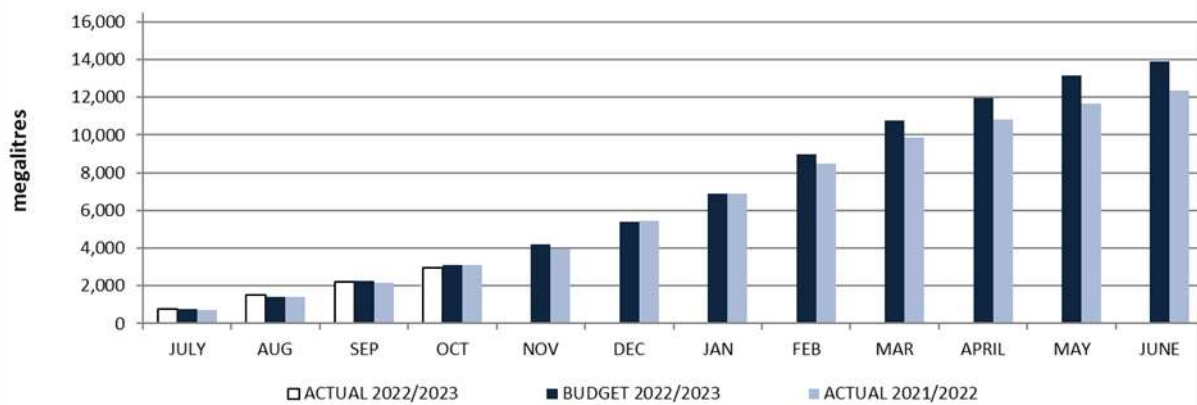
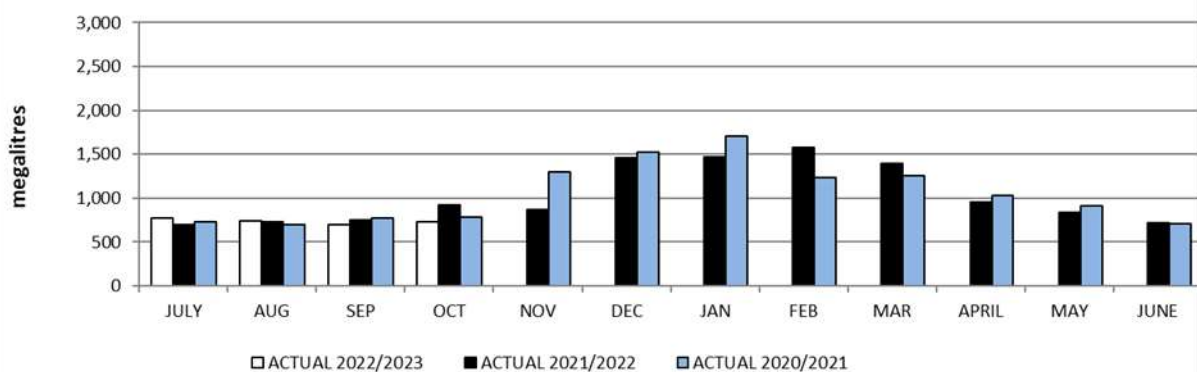
### Report

This report provides an overview of water usage, connections, maintenance and water quality matters from 1 – 31 October 2022.

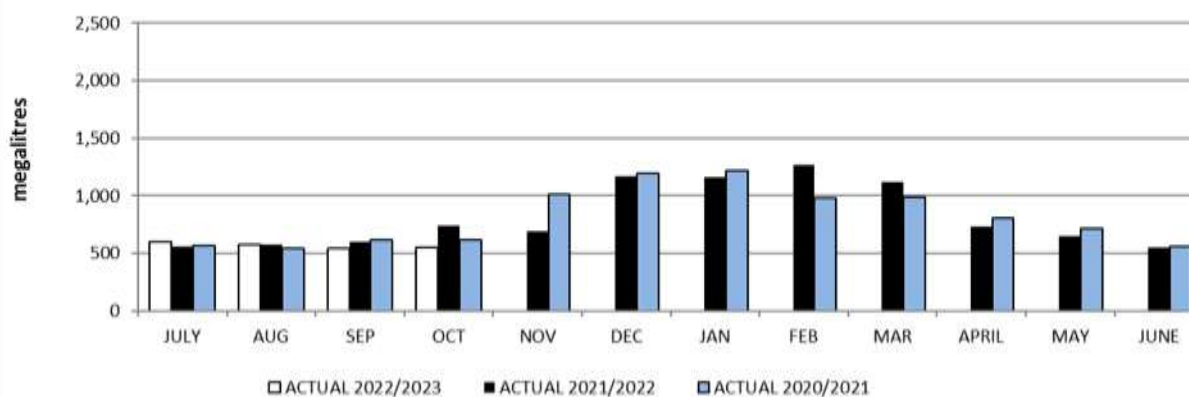
#### Water Sourced and Used

	2020	2021	2022
Rainfall	98.0	44.2	141.6
Wet days	13	7	20
<b>Water sourced October 2022 (MI)</b>			
North Wagga bores	146.61	187.71	152.74
West Wagga bores	422.35	383.17	101.16
East Wagga bores	149.76	282.81	172.93
Murrumbidgee River	13.41	15.70	278.42
<b>Sub Total</b>	<b>732.13</b>	<b>869.39</b>	<b>705.25</b>
Bulgary bores	24.27	31.43	11.68
Urana source	0.00	2.47	0.00
Ralvona bores	14.76	19.31	24.57
Walla Walla bores	0.00	0.00	0.00
Goldenfields Water Supply System	10.29	1.41	0.60
<b>Sub Total</b>	<b>49.32</b>	<b>54.62</b>	<b>36.85</b>
Woomargama	0.88	0.72	0.89
Humula	0.33	0.15	0.24
Tarcutta	2.49	3.09	3.97
Oura	2.23	3.38	2.10

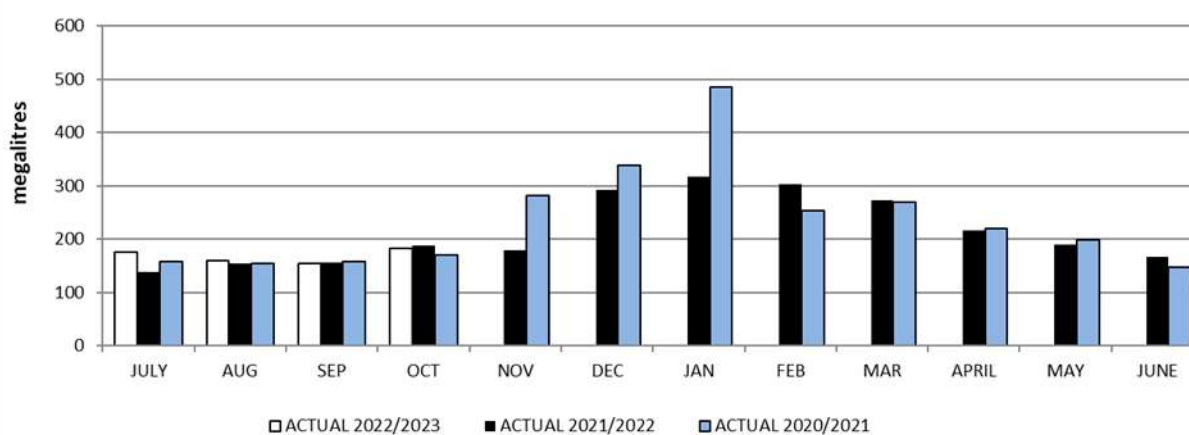
	2020	2021	2022
Walbundrie / Rand	1.95	3.06	2.77
Morundah	0.66	0.46	0.47
Collingullie	6.28	5.61	3.03
<b>Sub Total</b>	<b>14.82</b>	<b>16.47</b>	<b>13.47</b>
<b>Totals</b>	<b>796.27</b>	<b>940.48</b>	<b>755.57</b>
<b>Water used October 2022 (MI)</b>			
East Bomen	38.37	20.92	20.72
Estella	55.42	78.79	60.87
North Wagga	28.45	64.54	46.84
Wagga Wagga – low level	111.94	105.38	96.75
Wagga Wagga – high level	343.62	413.04	286.63
Wagga Wagga – Bellevue level	38.33	56.95	39.58
<b>Sub Total</b>	<b>616.13</b>	<b>739.62</b>	<b>551.39</b>
Ladysmith system	2.85	5.24	8.63
Brucedale scheme	28.63	14.60	18.42
Currawarna scheme	7.60	14.32	9.40
Rural Southern trunk main system	77.1	82.63	95.64
Rural Western trunk main system	24.56	35.61	12.89
<b>Sub Total</b>	<b>140.70</b>	<b>152.40</b>	<b>144.98</b>
Holbrook	14.73	19.26	24.45
Woomargama	0.88	0.72	0.89
Humula	0.33	0.15	0.24
Tarcutta	2.33	3.00	3.26
Oura	2.23	3.38	2.10
Walbundrie / Rand	1.95	3.06	2.77
Morundah	0.58	0.44	0.40
Collingullie	5.96	4.88	2.94
<b>Sub Total</b>	<b>28.99</b>	<b>34.89</b>	<b>37.05</b>
<b>Totals</b>	<b>785.82</b>	<b>926.91</b>	<b>733.42</b>

**DAILY WATER USED, WAGGA WAGGA, October 2022****TOTAL CUMULATIVE WATER USED 2022/2023****MONTHLY TOTAL WATER USED COMPARED TO PREVIOUS YEARS**

MONTHLY WAGGA WATER USED COMPARED TO PREVIOUS YEARS



MONTHLY RURAL WATER USED COMPARED TO PREVIOUS YEARS



### New Service Connections, Repairs, Meters, Locations and Complaints

Location	New connect – residential	New connect – non-residential	Services renewed	Services repaired	Quality complaints	Supply complaints *	Customer dealings complaints	Other complaints	Frost damage	Meter or Metercock fault	Leaking valves or hydrants	Locations
<b>Wagga Wagga</b>	<b>22</b>	<b>1</b>	<b>3</b>	<b>17</b>	<b>3</b>	<b>5</b>				<b>57</b>	<b>4</b>	
Wagga Wagga	1	1		8	2	2				3	1	
Estella						1						
Koorringal			1	2						7	2	
Turvey Park			1							3		
Lake Albert										7	1	
Ashmont				1						7		

Location	New connect – residential	New connect – non-residential	Services renewed	Services repaired	Quality complaints	Supply complaints *	Customer dealings complaints	Other complaints	Frost damage	Meter or Metercock fault	Leaking valves or hydrants	Locations
Tolland					1					3		
Mt Austin				1		1				5		
Bourkelands										2		
Tatton										2		
Glenfield			1	1		1				11		
Lloyd	5			4						2		
Springvale										3		
East Wagga	1											
Boorooma										1		
Moorong										1		
Gobbagombalin	15											
Brucedale						1						
Oura										1		
San Isidore											1	
Tarcutta				1	2							
The Gap										1		
Collingullie	1											
Lockhart	1									1		
Milbrulong				1								
Pleasant Hills				1	1							
Uranquinty					1					2		
Yerong Creek				1						1	1	
Holbrook				2						1		
Morven										1		
Walla Walla										1		
Urana	1			2								
<b>TOTAL</b>	<b>25</b>	<b>1</b>	<b>3</b>	<b>25</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>66</b>	<b>6</b>	

### Water System Repairs

Wagga Wagga							
Date	Town	Main type	Cause	Live repair	Outage duration time	Customers affected	Water lost (KI)
17/10/2022	Glenfield Park	150 BPVC	Pie Failure (not specified)	Yes		0	5

19/10/2022	Wagga Wagga	100 DICL	Pipe Failure (not specified)	No		0	10
19/10/2022	Turvey Park	200 AC	Pipe Failure (not specified)	Yes		0	5
23/10/2022	Lake Albert	100 AC	Pipe Failure (not specified)	No		24	15
28/10/2022	Lake Albert	100 AC	Pipe Failure (not specified)	No		20	10

Rural							
Date	Town	Main type	Cause	Live repair	Outage duration time	Customers affected	Water lost (KI)
8/10/2022	Holbrook	100 AC	Pipe Failure – ground movement	No		15	45
9/10/2022	Holbrook	100 AC	Pipe Failure – ground movement	No		15	53
11/10/2022	Urana	200 WPVC	Pipe Failure – ground movement	Yes		0	89
12/10/2022	Pleasant Hills	63 PE	Leaking collar	Yes		0	11
14/10/2022	Urana	200 WPVC	Pipe Failure – ground movement	No		20	160
14/10/2022	Urana	100 AC	Pipe Failure – ground movement	Yes		0	15
15/10/2022	Urana	200WP VC	Pipe Failure – ground movement	No		0	0
15/10/2022	Holbrook	100 AC	Pipe Failure (not specified)	No		6	0
18/10/2022	Holbrook	200 AC	Pipe Failure – ground movement	Yes		0	36
19/10/2022	Pleasant Hills	63 PE	Pipe Failure – ground movement	Yes		0	14
21/10/2022	Urana	200 WPVC	Pipe Failure – ground movement	No		20	106
24/10/2022	Bruce Dale	32 PVC	Pipe Failure (not specified)	Yes		0	5
26/10/2022	The Gap	32 PVC	Leaking Collar	No		2	3

### Water Quality Complaints

Date	Town	Request details	Action Taken
4/10/22	Tolland	Tenant reported that the water taste is unpleasant.	No meter at property, tested nearest meter and water meets ADWG.
13/10/22	Uranquinty	Dirty Water	Flush main
17/10/22	Uranquinty	Dirty Water	Flush main
21/10/22	Wagga	Water is white and grainy with a bad odour	Flushed air out of line
21/10/22	Wagga	Noticed milky water	Milky water settled over course of phone call, consumer was happy it was only air
25/10/22	Tarcutta	Please flush dead end	Flushed water main
24/10/22	Tarcutta	Taste and smell of water.	Tested Cl2 0.63mg/L, Turb 0.95NTU, water smelt and tasted OK. All within ADWG.
27/10/22	Pleasant Hills	Air in pipes after main repair	Install air valve on customers service

### New water mains laid

Location	63	100		150		200		300	450
	PE	OPVC	DICL	OPVC	DICL	OPVC	DICL	OPVC	DICL
RIFL								406	22

### Replacement of Existing Mains

Location	50	63	100		150	150	200	300		375
	PE	OPVC	DICL	OPVC	DICL	OPVC	OPVC	OPVC	DICL	DICL
Salmon St			157							
Freer St			324							

### Other Construction

Location or Project	Work done
Freer St	Service Replacements 16 x 20mm



### Major Repairs / Overhauls

<b>Facility</b>	<b>Work done</b>
East Wagga WTP	Bore Cleaning
West Wagga WTP	Bore Cleaning
Wagga Wagga WTP	Centrifuge services by Alfa Laval
West Wagga WTP	Control System Upgrade
Wagga Wagga WTP	Sludge pump optimisation and repair
Urana WTP	Plant start-up for Summer Operation
Urana WTP	Dam pump replacement
Urana WTP	Alum Dosing Tank Replacement
Tarcutta WTP	Iron Filter Refurbishment
Old Waterworks	Pump Well Dewatering

### Water Filling Station Activity

<b>Location</b>	<b>Number of fills</b>
Bomen Hereford Street	9
Estella Farrer Road	89
Forest Hill Elizabeth Avenue	15
Glenfield Red Hill Road	14
Henty Olympic Way	2
Holbrook Millswood Road	3
Lake Albert Plumpton Road	26
Lockhart Napier Road	20
Pleasant Hills Manson Street	2
The Rock	4
Urana Federation Way	4
Yeong Creek Finlayson St	2

### Fleet Disposals

Nil

### Fleet Acquisitions

Nil

**Financial Implications**

Nil

**Risk Considerations**

<b>Service Delivery</b>	
Avoid	Council will avoid taking on any risks which may compromise water quality.

## R22 Works Report covering November 2022

### Organisational Area Engineering

**Author** Bede Spannagle, Director of Engineering

**Summary** This report provides an overview of water usage, connections, maintenance and water quality matters from the 1st to the 30th November 2022.

**RECOMMENDATION** that the Works Report covering November 2022 be received and noted.

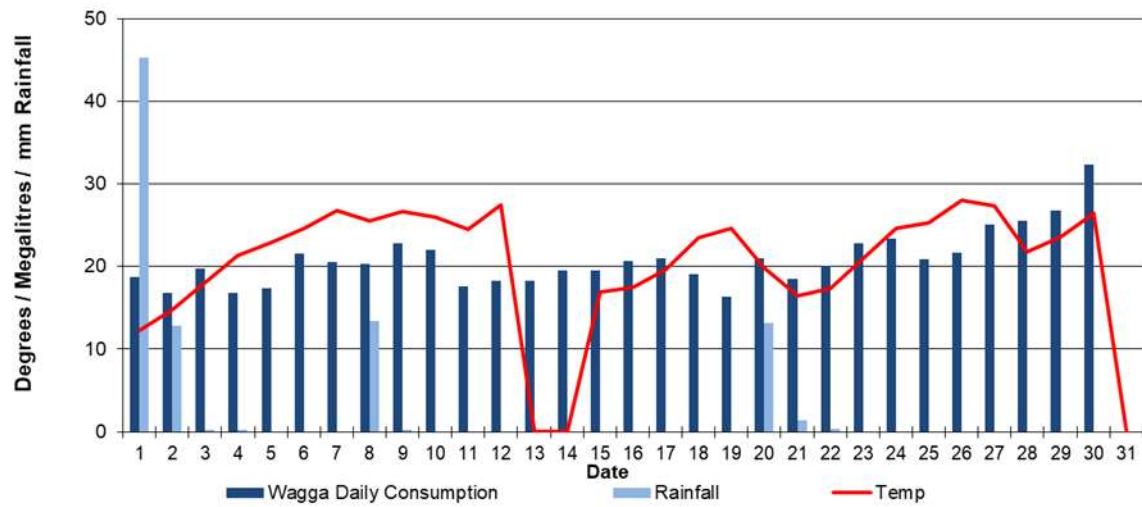
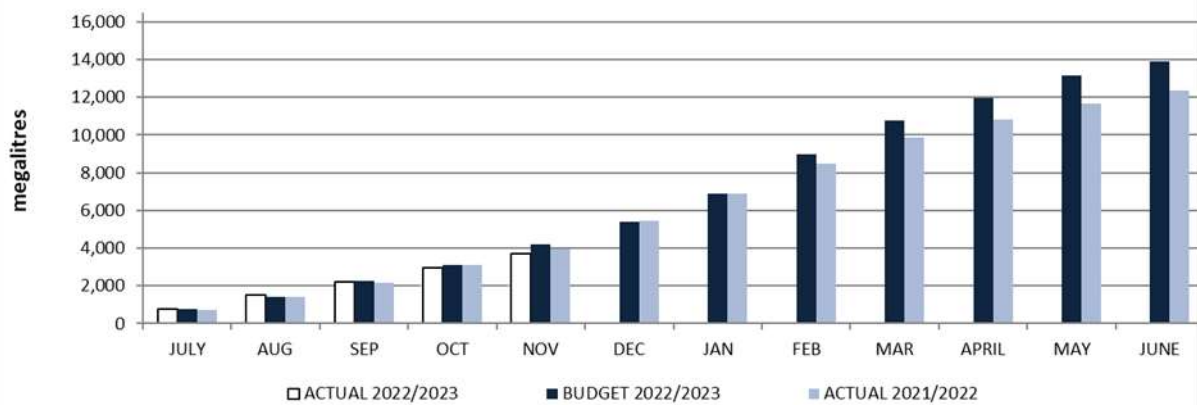
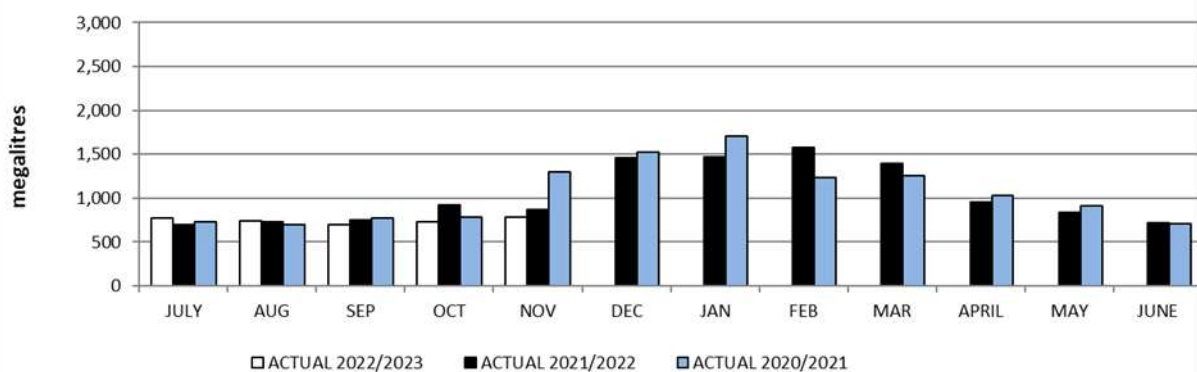
### Report

This report provides an overview of water usage, connections, maintenance and water quality matters from 1 – 30 November 2022.

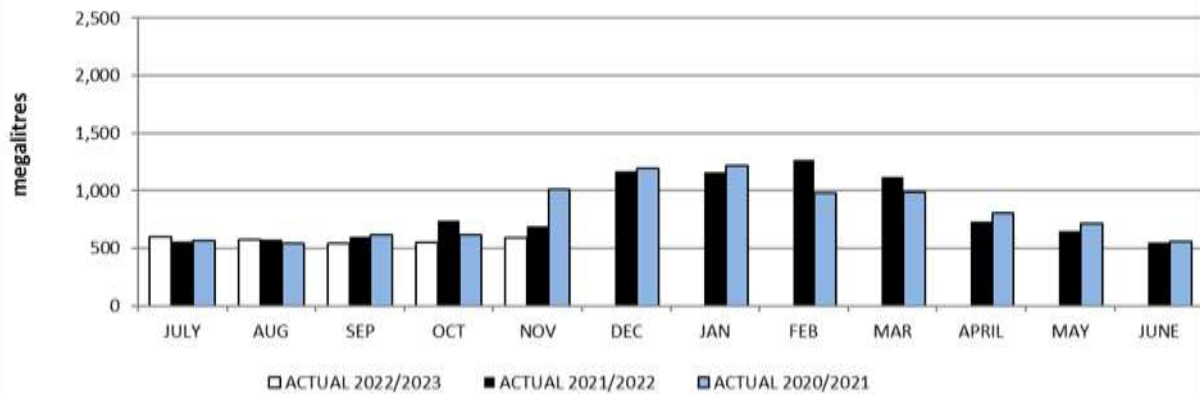
#### Water Sourced and Used

	2020	2021	2022
Rainfall	49.8	158.4	87.0
Wet days	9	17	9
<b>Water sourced November 2022 (ML)</b>			
North Wagga bores	234.89	182.45	159.75
West Wagga bores	512.03	348.99	105.18
East Wagga bores	306.48	206.94	144.04
Murrumbidgee River	148.17	76.38	347.96
<b>Sub Total</b>	<b>1,201.57</b>	<b>814.76</b>	<b>756.93</b>
Bulgary bores	46.39	27.80	7.81
Urana source	4.47	5.42	2.45
Ralvona bores	20.95	17.89	26.17
Walla Walla bores	15.00	0.00	0.00
Goldenfields Water Supply System	13.68	1.59	2.71
<b>Sub Total</b>	<b>100.49</b>	<b>52.70</b>	<b>39.14</b>
Woomargama	1.16	0.79	0.80
Humula	0.39	0.32	0.53
Tarcutta	3.57	3.00	6.33
Oura	4.39	2.85	1.82

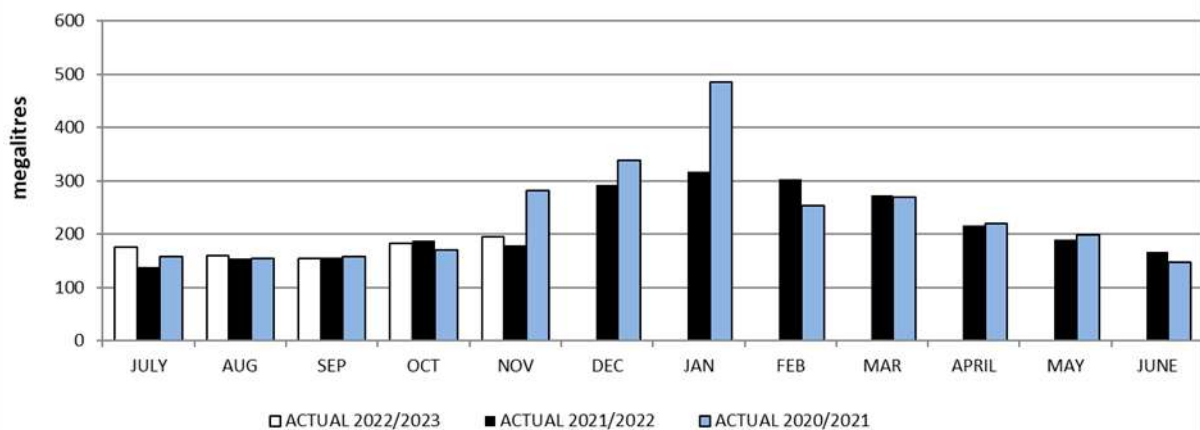
	2020	2021	2022
Walbundrie / Rand	3.58	4.97	2.79
Morundah	1.25	0.56	0.41
Collingullie	9.83	4.07	4.63
<b>Sub Total</b>	<b>24.17</b>	<b>16.56</b>	<b>17.31</b>
<b>Totals</b>	<b>1,326.23</b>	<b>884.02</b>	<b>813.38</b>
<b>Water used November 2022 (MI)</b>			
East Bomen	26.07	21.64	20.05
Estella	110.09	68.00	60.88
North Wagga	68.03	69.14	59.04
Wagga Wagga – low level	162.74	96.35	100.31
Wagga Wagga – high level	552.98	379.85	308.85
Wagga Wagga – Bellevue level	95.41	52.01	39.52
<b>Sub Total</b>	<b>1,015.32</b>	<b>686.99</b>	<b>588.65</b>
Ladysmith system	4.95	4.37	17.10
Brucedale scheme	32.02	14.82	15.05
Currawarna scheme	16.34	12.91	10.15
Rural Southern trunk main system	134.6	79.88	101.92
Rural Western trunk main system	50.15	33.66	10.46
<b>Sub Total</b>	<b>238.10</b>	<b>145.64</b>	<b>154.68</b>
Holbrook	20.97	17.82	26.10
Woomargama	1.16	0.79	0.80
Humula	0.39	0.32	0.53
Tarcutta	3.44	2.91	3.29
Oura	4.39	2.85	1.82
Walbundrie / Rand	3.58	4.97	2.79
Morundah	1.25	0.56	0.38
Collingullie	9.31	3.82	4.47
<b>Sub Total</b>	<b>44.49</b>	<b>34.04</b>	<b>40.18</b>
<b>Totals</b>	<b>1,297.91</b>	<b>866.67</b>	<b>783.51</b>

**DAILY WATER USED, WAGGA WAGGA, November 2022****TOTAL CUMULATIVE WATER USED 2022/2023****MONTHLY TOTAL WATER USED COMPARED TO PREVIOUS YEARS**

MONTHLY WAGGA WATER USED COMPARED TO PREVIOUS YEARS



MONTHLY RURAL WATER USED COMPARED TO PREVIOUS YEARS



### New Service Connections, Repairs, Meters, Locations and Complaints

Location	New connect – residential	New connect – non-residential	Services renewed	Services repaired	Quality complaints	Supply complaints *	Customer dealings complaints	Other complaints	Frost damage	Meter or Metercock fault	Leaking valves or hydrants	Locations
Wagga Wagga	18	3	8	18	12	3				79	13	
Wagga Wagga	4	1	4	4	7	1				13	1	
Forest Hill				1	1					5		
North Wagga				1	2							

Location	New connect – residential	New connect – non-residential	Services renewed	Services repaired	Quality complaints	Supply complaints *	Customer dealings complaints	Other complaints	Frost damage	Meter or Metercock fault	Leaking valves or hydrants	Locations
Bomen											1	
Estella				2								
Koorinal	1		1	1						8	3	
Turvey Park				3		1				3		
Lake Albert				1	1					8	2	
Ashmont			3	2						12		
Tolland	1				1					4		
Mt Austin										9	1	
Bourkelands										2		
Tatton						1						
Glenfield										11		
Lloyd		1								2	4	
Springvale											1	
East Wagga		1								2		
Boorooma				1								
Gobbagombalin	9			1								
Gumly Gumly	3			1								
Brucedale										2		
Ladysmith										1		
San Isidore										1		
Tarcutta										1		
Collingullie				1								
French Park				1								
Lockhart					1					1		

Location	New connect – residential	New connect – non-residential	Services renewed	Services repaired	Quality complaints	Supply complaints *	Customer dealings complaints	Other complaints	Frost damage	Meter or Metercock fault	Leaking valves or hydrants	Locations
Pleasant Hills											1	
The Rock											1	
Henty										1		
Holbrook				1		1				5		
Walbundrie										1		
Walla Walla										1		
Boree Creek						1						
Oaklands										2		
Urana										1		
<b>TOTAL</b>	<b>18</b>	<b>3</b>	<b>8</b>	<b>21</b>	<b>13</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>96</b>	<b>15</b>	

#### Water System Repairs

Wagga Wagga							
Date	Town	Main type	Cause	Live repair	Outage duration time	Customers affected	Water lost (KI)
1/11/2022	Lake Albert	100 AC	Pipe failure – ground movement	No		20	10
1/11/2022	Glenfield Park	100 BPVC	Pipe failure (not specified)	Yes		0	7
2/11/2022	Ashmont	100 AC	Tree roots	Yes		0	5
6/11/2022	Lake Albert	100 AC	Pipe failure (not specified)	Yes		0	5
7/11/2022	Wagga Wagga	100 AC	Pipe failure (not specified)	Yes		0	5
9/11/2022	Lake Albert	150 WPVC	Pipe failure (not specified)	Yes		0	3
18/11/2022	Wagga Wagga	63 PE	Pipe failure (not specified)	Yes		0	0



Rural							
Date	Town	Main type	Cause	Live repair	Outage duration time	Customers affected	Water lost (KI)
1/11/2022	Milbrulong	80 PVC	Pipe failure – ground movement	Yes		0	12
2/11/2022	Brucedale	32 PVC	Leaking collar	No		2	2
3/11/2022	Ralvona	50 PVC	Leaking collar	No		0	18
3/11/2022	The Rock	50 PE	Pipe failure – ground movement	No		0	17
7/11/2022	Pleasant Hills	63 PE	Pipe failure – ground movement	No		0	12
8/11/2022	The Rock	63 PE	Pipe failure – ground movement	No		0	13
13/11/2022	Collingullie	100 WPVC	Pipe failure – ground movement	Yes		0	12
16/11/2022	Pleasant Hills	63 PE	Pipe failure – ground movement	Yes		0	13
17/11/2022	Culcairn	150 DICL	Accidental damage	No		10	0
17/11/2022	Culcairn	150 DICL	Pipe failure – ground movement	No		20	12
20/11/2022	Morven	150 AC	Pipe failure (not specified)	No		10	0
22/11/2022	The Rock	40 PE	Pipe failure – ground movement	Yes		0	35
23/11/2022	Milbrulong	80 PVC	Pipe failure (not specified)	No		0	24
23/11/2022	Woomargama	80 PVC	Tree roots	No		5	0
23/11/2022	Brucedale	63 PE	Pipe failure (not specified)	Yes		0	0
25/11/2022	The Rock	63 PE	Pipe failure – ground movement	Yes		0	12
25/11/2022	Collingullie	100 WPVC	Pipe failure – ground movement	Yes		0	14
25/11/2022	Pleasant Hills	63 PE	Pipe failure – ground movement	Yes		0	23

### Water Quality Complaints

Date	Town	Request details	Action Taken
21.11.22	Wagga Wagga	Customer concerned about calcium build-up in bathroom.	Sample taken and tested, results within ADWG. Suggested discussing options with plumber.
23.11.22	Forest Hill	Dirty water, smell.	Sample taken and within ADWG. Suggested collecting sample or dirty water next time problem occurs.

### New water mains laid

Location	63	100		150		200		300	450
	PE	OPVC	DICL	OPVC	DICL	OPVC	DICL	OPVC	DICL
RIFL Bomen								1050m	
Gurwood St		170m							
Brunslea Park		636m							
Harris Rd			18m		54m				

### Replacement of Existing Mains

Location	50	63	100		150	150	200	300		375
	PE	OPVC	DICL	OPVC	DICL	OPVC	OPVC	OPVC	DICL	DICL
Freer St			18m							
Morven						400m				

### Other Construction

Location or Project	Work done
56 Copland Street Fire Service	30m x 150 DICL
Brunslea Park	12 x 20mm short services

### Major Repairs / Overhauls

Facility	Work done
Urana WTP	Dam Pump Optimisation
Ladysmith Pump Station	Pump 2 Repairs
West Wagga Bore 1	Pump Installation
Woomargama WTP	Repairs and replacements of equipment after floods

Ralvona WTP	Replacement of Turbidity Analyser
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### Water Filling Station Activity

Location	Number of fills
Bomen Hereford Street	150
Estella Farrer Road	90
Forest Hill Elizabeth Avenue	40
Glenfield Red Hill Road	75
Henty Olympic Way	5
Holbrook Millswood Road	51
Lake Albert Plumpton Road	36
Lockhart Napier Road	52
Ralvona	3
The Rock	1
Walla Walla Short St	1
Woomargama Murray Street	3

### Fleet Disposals

Nil

### Fleet Acquisitions

Nil

### **Financial Implications**

Nil

### **Risk Considerations**

Service Delivery	
Avoid	Council will avoid taking on any risks which may compromise water quality.

## R23 Council Resolution Sheet

**Organisational Area** Chief Executive Officer

**Author** Andrew Crakanthorp, Chief Executive Officer

**Summary** The report provides an update on the status of previous resolutions of the Board.

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**RECOMMENDATION** that the report detailing the status of the active resolutions of Riverina Water be received.

### Report

The attachment to this report provides details on the implementation of Board resolutions.

› **R23.1 Council Resolution Sheet** [↓](#) 

### Financial Implications

Nil

### Risk Considerations

Corporate Governance And Compliance	
Avoid	Council will avoid risks relating to corporate governance and compliance including ethical, responsible and transparent decision making and procedural/policy, legal and legislative compliance.

## OUTSTANDING ACTIONS REPORT

**Printed: Wednesday, 7  
December 2022 9:53:39 AM**

Meeting	Date	Officer	Title	Target
Board Meeting 27/04/2022	27/04/2022	Vidler, Greg	Lease of Part of Lot 1 DP742224 to Mawsons	11/05/2022
<b>Resolution</b>				

22/079

**RESOLVED:**

On the Motion of Councillors T Quinn and MH Henderson

**That Council:**

- a) Delegate authority to the CEO to progress a request to lease approximately 5900m<sup>2</sup> of Lot 1 DP 742224, Forge St, Wagga Wagga; and
- b) Receive a further report for approval to enter a lease with proposed terms

**CARRIED****Notes For Action****14 Jun 2022 3:46pm Vincent, Melissa**

Discussions with the potential lessee are continuing

Meeting	Date	Officer	Title	Target
Board Meeting 24/08/2022	24/08/2022	Crakanthorp, Andrew	Proposed Riverina Water Reconciliation Action Plan	7/09/2022
<b>Resolution</b>				

22/131

**RESOLVED:**

On the Motion of Councillors D Hayes and J McKinnon

That Council develop a draft Reconciliation Action Plan for Council's further consideration.

Cr Quinn requested that his vote against the motion be recorded.

**CARRIED****Notes For Action****20 Oct 2022 8:36am Vincent, Melissa**

The application process has commenced including the payment of the application fee of \$1650

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Reichelt, Wendy	Code of Conduct Policy 1.01 and Administration of Code of Conduct Procedures	9/11/2022
<b>Resolution</b>				

22/165

**RESOLVED:**

On the Motion of Councillors D Hayes and MH Henderson

**That Council review**

- a) The Riverina Water Code of Conduct 1.01, noting that it is required to be placed on public exhibition for 28 days
- b) The Model Code Procedures for the administration of the Riverina Water Code of Conduct Policy 1.01, noting that this will be adopted in line with the Code of Conduct in December 2022

**CARRIED****Notes For Action****07 Dec 2022 9:45am Vincent, Melissa**

There is a report in this business paper recommending adoption of the policy

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Reichelt, Wendy	Equal Employment Opportunity Policy	9/11/2022
<b>Resolution</b>				

22/170

**RESOLVED:**

On the Motion of Councillors D Hayes and JM McKinnon

**That Council:**

- (a) review Equal Employment Opportunity Policy 1.21
- (b) note that the Equal Employment Opportunity Policy will be placed on public exhibition for a period of 28 days inclusive of the feedback provided by the Board during the meeting.

## OUTSTANDING ACTIONS REPORT

**Printed: Wednesday, 7  
December 2022 9:53:39 AM**

Meeting	Date	Officer	Title	Target
(c)	note that a further report will be provided to the December meeting of the Board inclusive of any feedback received prior to adoption of the policy.			CARRIED

### Notes For Action

07 Dec 2022 9:45am Vincent, Melissa

There is a report in this business paper recommending adoption of the policy

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Crakanthorp, Andrew	LGNSW Rural & Regional Summit	9/11/2022
<b>Resolution</b>				

22/173

### RESOLVED:

On the Motion of Councillors D Hayes and J McKinnon

That

- a) Riverina Water be represented at the Local Government New South Wales 2023 Rural and Regional Summit
- b) The Chairperson or his nominee attend the Summit
- c) Nominations of other Board Members to attend be called
- d) The Chief Executive Officer or his nominee attend the Summit

Interested in attending are Clr Hayes, and Clr McKinnon, and call for anyone else interested to advise the Chairperson and CEO after the release of the program for the Summit.

CARRIED

### Notes For Action

07 Dec 2022 9:48am Vincent, Melissa

The agenda for the day has been released and circulated for consideration of Board Members

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Ip, Jason	Electricity Market Conditions and Contract Arrangements	9/11/2022
<b>Resolution</b>				

22/176

### RESOLVED:

On the Motion of Councillors T Quinn and G Driscoll

That Council:

- a) Pursuant to s55(3)(i) of the Local Government Act 1993, the Board considers that a satisfactory result would not be achieved by inviting tenders before entering into a contract for the purchase of energy, due to extenuating circumstances, being:
  - i. current energy market volatility and significant risk in entering into a fixed agreement
  - ii. multiple options for purchasing energy, such as wholesale purchasing
  - iii. flexibility in purchasing processes is required for speed of acting on low price demands within the National Energy Market (NEM)
- b) Provide the CEO or their delegate the delegation to negotiate the purchase of energy and enter into any such Agreements necessary to continue the efficient operations of the Riverina Water supply network

CARRIED

### Notes For Action

07 Dec 2022 9:49am Vincent, Melissa

The CEO and the management team continue to consider options to secure our energy needs and minimise the cost to Riverina Water

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Vidler, Greg	The Rock Reservoir Land Acquisition	9/11/2022
<b>Resolution</b>				

22/183

### RESOLVED:

On the Motion of Councillors D Meyer OAM and T Quinn

That Council:

- a) proceed with the compulsory acquisition of the land described as 4376 Olympic Highway, The Rock, NSW (part Lot 1 in Deposited Plan 596611), in accordance with the requirements of the Land Acquisition (Just Terms Compensation) Act 1991; and

## OUTSTANDING ACTIONS REPORT

**Printed: Wednesday, 7  
December 2022 9:53:39 AM**

Meeting	Date	Officer	Title	Target
(b) make an application to the Minister and the Governor for approval to acquire 4376 Olympic Highway, The Rock, NSW (part Lot 1 in Deposited Plan 596611), for the purpose of the construction of the Rock Reservoir and associated access in accordance with Section 186(1) of the Local Government Act 1993 (c) upon acquisition, classify the land as operational land in accordance with the Local Government Act. (d) Delegate authority to the CEO to sign all documents relating to the compulsory acquisition and pay requisite compensation for the land.				
<b>CARRIED</b>				
<b>Notes For Action</b> <b>07 Dec 2022 9:50am Vincent, Melissa</b> The acquisition process continues as planned.				

Meeting	Date	Officer	Title	Target
Board Meeting 26/10/2022	26/10/2022	Eisenhauer, Natalie	Proposed Pipeline Easement at Brucedale, Wagga Wagga	9/11/2022
<b>Resolution</b>				
<b>22/184 RESOLVED:</b> On the Motion of Councillors D Hayes and G Davies  <b>That Council:</b> <ol style="list-style-type: none"> <li>Establish an easement within Lot 1 DP 706063 as shown in the attached unregistered plan for water supply pipeline and right of access to water main.</li> <li>Delegate authority to the Chief Executive Officer (CEO) to establish an easement for pipeline and right of access.</li> <li>Affix council's common seal to documents as required.</li> </ol>				
<b>CARRIED</b>				
<b>Notes For Action</b> <b>07 Dec 2022 9:50am Vincent, Melissa</b> All legal documents were signed by the CEO and Chairperson on the 8 December 2022.				

# M1 Minutes of Audit, Risk and Improvement Committee held on 24 November 2022

**Organisational Area** Corporate Services

**Author** Wendy Reichelt, Governance & Records Officer

**Summary** Following the meetings of the ARIC the minutes are provided to the Board for information and endorsement.

**RECOMMENDATION** that Council endorses the recommendations contained in the minutes of the Audit, Risk and Improvement Committee meeting held on 24 November 2022.

## Report

The Audit, Risk and Improvement Committee met on 24 November 2022. The minutes of the meeting are attached. Also attached is the Chairmans Report that accompanies these minutes that provides further context for the information of the Board.

- › M1.1 **Audit, Risk and Improvement Committee Minutes 24 November 2022** [↓](#) 
- › M1.2 **Chairmans Report November 2022** [↓](#) 



# Minutes of the Audit, Risk and Improvement Committee held on Thursday 24 November 2022

The meeting of the Riverina Water County Council Audit, Risk and Improvement Committee was declared open at 9:32am.

## 1 Acknowledgment of Country

I acknowledge the Wiradjuri people who are the Traditional Custodians of this Land. I also pay respect to the Elders both past and present of the Wiradjuri Nation and extend that respect to other Community members present.

## 2 Attendance and Apologies

### Present

David Maxwell (Chairperson)  
Bryce McNair (via teams)  
Shannon Buckley (via teams)  
Councillor Michael Henderson

### In Attendance

Andrew Crakanthorp  
Emily Tonacia  
Wendy Reichelt  
Melissa Vincent

Chief Executive Officer  
Director Corporate Services  
Governance and Records Officer  
Executive Assistant to the CEO

### Apologies

**22/044 RESOLVED:**  
On the Motion of S Buckley and B McNair

**That the meeting note the absence of Councillor Georgie Davies who was on approved leave granted by the Board.**

**CARRIED**

## 3 Declaration interests

Councillor Michael Henderson declared a non-pecuniary and non-significant interest in 6.2 Internal Audit Status Report November 2022 the reason being National Audit Group provide audit services for Wagga Boat Club and remained in the meeting during the discussion.

## 4 Minutes of Previous Meetings

### 4.1 Minutes of the Riverina Water Audit, Risk and Improvement Committee Meeting held on Wednesday 14 July and Wednesday 21 September 2022

**22/045 RESOLVED:**

On the Motion of B McNair and S Buckley

**That the minutes of the Audit, Risk and Improvement Committee meeting of 14 July 2022 having been circulated and read by Members, were confirmed as a true and accurate record of the proceedings.**

**CARRIED**

**22/046 RESOLVED:**

On the Motion of S Buckley and B McNair

**That the minutes of the Audit, Risk and Improvement Committee meeting of 21 September 2022 having been circulated and read by Members, were confirmed as a true and accurate record of the proceedings.**

**CARRIED**

### 4.2 Business arising from previous meeting

**22/047 RESOLVED:**

On the Motion of D Maxwell and B McNair

**That the Committee note that the ARIC Chairperson's Annual Report ending 30 June 2022 was approved by ARIC members out of session and presented by the Chair to the August 2022 Board Meeting.**

**CARRIED**

## 5 External Audit

**22/048 RESOLVED:**

On the Motion of S Buckley and B McNair

**That the Committee note the Engagement Closing Report.**

**CARRIED**

## 5.1 2021/22 Financial Statements - Independent Audit Reports

### 22/049 RESOLVED:

On the Motion of Councillor M Henderson and B McNair

**That Audit, Risk and Improvement Committee receive and note the 2021/22 Independent Auditor's reports, being:**

- a) Independent Auditor's Report for the General Purpose Financial Statements:**
- b) Independent Auditor's Report for the Special Purpose Financial Statements; and**
- c) Report on the Conduct of the Audit.**

**CARRIED**

## 6 Internal Audit

### 6.1 Project Management Methodology

#### 22/050 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That the Audit, Risk and Improvement Committee note the advice from the Chief Executive Officer and note the report be presented to the next meeting of the committee.**

**CARRIED**

*Stephen Prowse joined the meeting at 9:45am via Teams*

### 6.2 Internal Audit Status Report November 2022

#### 22/051 RESOLVED:

On the Motion of S Buckley and B McNair

**That the Audit, Risk and Improvement Committee note the Internal Audit progress report to 11 November 2022.**

**CARRIED**

*Stephen Prowse left the meeting at 9:55am.*

*Michael Chandra joined the meeting at 9:55am*

## 10.1 Investment Portfolio Annual Report Presentation & Policy Review

### 22/052 RESOLVED:

On the Motion of S Buckley and B McNair

#### That Audit, Risk and Improvement Committee:

- a) Thank Michael Chandra for his presentation
- b) Note the comments offered during the meeting and that draft POL 1.23 - Investments be reviewed in light of those comments and then be presented to the December Board Meeting

**CARRIED**

*Michael Chandra left the meeting at 11:04am*

*Emily Tonacia left the meeting at 11:05am.*

*Emily Tonacia joined the meeting at 11:08am.*

## 7 Other Reports

### 7.1 2022 Recordkeeping Monitoring Exercise

#### 22/053 RESOLVED:

On the Motion of B McNair and S Buckley

#### That the Audit, Risk and Improvement Committee:

- a) Note the results of the 2022 Recordkeeping Monitoring Exercise and
- b) Note that actions designed to improve recordkeeping practices at Riverina Water will be included and monitored in the Knowledge Management strategy, in development

**CARRIED**

### 7.2 Risk and Governance Report

#### 22/054 RESOLVED:

On the Motion of B McNair and Councillor M Henderson

#### That the Audit, Risk and Improvement Committee

- a. Note the compliance policy and framework as adopted by council
- b. Receive and note the risk and governance report
- c. Requests that the IT Manager attend up to two Committee meetings each year or as required

**CARRIED**

### 7.3 StateCover Riverina Water Chief Executive Officer Report

#### 22/055 RESOLVED:

On the Motion of Councillor M Henderson and S Buckley

**That Audit, Risk and Improvement Committee notes the results of the StateCover Annual Workers Compensation and Safety Performance Report for 2021/22.**

**CARRIED**

*Bryce McNair left the meeting at 11:32am*

### 7.4 StateCover WHS Self Audit 2022

#### 22/056 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That Audit, Risk and Improvement Committee:**

- a) Receive and note the results of the 2022 StateCover self-audit; and
- b) Note that the management actions will be added to Pulse for ongoing monitoring and reporting
- c) WHS Officer be commended on the improved documentation supporting the WHS self-audit.

**CARRIED**

*Andrew Crakanthorp left the meeting at 11:38am*

*Andrew Crakanthorp joined the meeting at 11:40am*

### 7.5 Statewide Mutual CIP Program 2022 - Business Continuity Management

#### 22/057 RESOLVED:

On the Motion of Councillor M Henderson and S Buckley

**That Audit, Risk and Improvement Committee**

- a) note the excellent results by Riverina Water in the preliminary report of the 2022 Statewide Mutual CIP program - Business Continuity Management
- b) Ask that a summary report into the plan's use for COVID be provided to the ARIC at its February 2023 meeting and any improvement actions be listed at that time

**CARRIED**

*Grace Hemley joined the meeting at 11:48am*

## 10.2 FLOW Project Update

### 22/058 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That the Audit, Risk and Improvement Committee receive and note the status update on the FLOW Project.**

**CARRIED**

## 8 Chief Executive Officers Report – verbal

### 22/059 RESOLVED:

On the Motion of Councillor M Henderson and S Buckley

**That the Committee receive and note the Chief Executive Officers confidential report.**

**CARRIED**

## 9 Riverina Water Work Health and Safety Committee minutes

### 9.1 WHS Committee Minutes August and October 2022

#### 22/060 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That the Audit, Risk and Improvement Committee receive and note the WHS Committee minutes of August and October 2022.**

**CARRIED**

### 7.6 Management Audit Actions Progress Report Nov 2022

#### 22/061 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That the Audit, Risk and Improvement Committee review the progress of actions contained within the Management Audit Actions progress report for November 2022.**

**CARRIED**

## 10 Committee Operations

### 10.3 ARIC Forward Meeting Plan 2023

#### 22/062 RESOLVED:

On the Motion of Councillor M Henderson and S Buckley

**That the Audit, Risk and Improvement Committee confirm the proposed Forward Meeting Plan for 2023, noting that this is open to change as required.**

**CARRIED**

*The following meeting dates were agreed – Thursdays - 16 February, 11 May, 10 August, 21 September (financials only) and 9 November 2023.*

### 10.4 ARIC Actions Register

#### 22/063 RESOLVED:

On the Motion of S Buckley and Councillor M Henderson

**That the Audit, Risk and Improvement Committee note the progress of the matters contained within the meetings actions register date 10 November 2022.**

**CARRIED**

The Chair wished the Committee and their families all the very best for the festive season.

**This concluded the meeting of the Riverina Water County Council Audit, Risk and Improvement Committee which rose at 12:36pm.**

**RIVERINA WATER COUNTY COUNCIL**  
**AUDIT, RISK & IMPROVEMENT COMMITTEE**

**CHAIRMAN'S REPORT – 24 November 2022**

We welcomed Cr Mick Henderson to his first Committee meeting as alternate delegate for Cr Georgie Davies.

**External Audit**

The Committee formally received the Engagement Closing Report and formal Audit Reports accompanying the Annual Financial Statements, noting that no final management letter would be issued because the auditor had so few concerns. This reflects very well on Council's accounting team.

**Internal Audit**

The internal audit program is lagging slightly, but the Project Management assignment will be completed for consideration at our next meeting. The timing of future assignments was also discussed.

**Other Reports**

Investment Policy Review

Michael Chandra from Imperium Markets attended by Zoom and gave a presentation of Council's investment portfolio and offered comments for consideration in the review of Council's Investment Policy. Committee members reviewed the draft of the Investment Policy in detail and asked questions and offered comments for consideration. Staff noted the comments and agreed to review the draft prior to presentation at the Board's December meeting.

2022 Recordkeeping Monitoring Exercise

The State Archives & Records Authority conducted the first of a proposed annual exercise to monitor the status of compliance with the *State Records Act*, and the results of this were presented. Staff have commenced initial consideration of a rather wider Knowledge Management strategy scheduled for 2023-24 and it was agreed that further action in this area be included in that project.

Risk & Governance Report

We noted the new Compliance policy and Governance Framework recently adopted by Council and attention was drawn to the specific areas in these where reference is made to this Committee.

Following the recent publicity following cyber attacks, these risks were again discussed and we requested that the IT Manager be asked to attend some meetings each year to keep the Committee up to date on the progress on addressing these risks as they emerge and change.

Statecover Annual Report & 2022 Self-Audit

The annual Chief Executive's Report, which covered the 2021 Self-Audit and premiums, and the 2022 Self-Audit were reviewed and improvements in the necessary supporting documentation were noted.

Statewide Mutual Continuous Improvement Program

Statewide Mutual's Continuous Improvement Program reviewed Council's Business Continuity Management and the preliminary results were very positive – no doubt assisted by the fact that this system was used during the COVID epidemic. Now that this use has finished we asked that we be supplied with a copy of the review of the operation, together with suggestions for improvement.



#### FLOW Project Update

The Committee is concerned about the delays and difficulties being met with this project, which are probably only to be expected with any project of such size and complexity. We have accepted all explanations given to us and noting that important meetings to resolve the issue are scheduled for the next few days, endorse the approach being taken.

#### CEO Confidential Report

The purpose of this report is to advise the Committee of matters where legislation does not permit public disclosure.

#### WHS Committee Minutes

We review the minutes of these meetings to inform ourselves of the actions being taken by the WHS Committee to reduce the risks attendant on workforce activities.

#### **Committee Operations**

##### Management Audit Actions Progress Report

This matrix informs the Committee of progress in implementing recommendations of external and internal auditors, and arising from Statecover and Statewide Mutual self-audits.

##### Forward Meeting Plan 2023

Pending the release of the - forever promised – new OLG guidelines for Audit, Risk & Improvement Committees, we have scheduled our planned activities for 2023 on the basis that these can be changed later as required.

As Chairman I wish all members and families of members, the Board and staff the very best for the festive season and the New Year.

David G Maxwell  
Chairman

# CONF-1 Raw Water Pump Tender W291

**Organisational Area** Engineering

**Author** Greg Vidler, Manager Projects

**Summary** This report provides a recommendation to decline to accept any of the tenders for the Raw Water Pump tender W291 but rather to enter negotiations with the persons who submitted tenders.

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(di) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

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# CONF-2 Update on UGL Cost to Complete Claim

**Organisational Area** Engineering

**Author** Bede Spannagle, Director of Engineering

**Summary** Riverina Water has commenced preparing a "Cost to Complete claim for outstanding work undertaken in relation to the Wagga Wagga Water Treatment Plant Construction Contract (Wagga Wagga WTP Contract).

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(di) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

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## CONF-3 Conduct of the Annual Performance Review for Chief Executive Officer

**Organisational Area** Chief Executive Officer

**Author** Tim Koschel, Councillor

**Summary** The Board at its meeting in August 2022, endorsed the recommendations of the CEO's Performance Review Panel (PRP). During discussion of the Panel's recommendation and processes, the Board requested that "proposals to undertake the CEO's annual performance review be obtained" This report provides a summary of the two proposals received.

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

(di) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it