



Council

An Ordinary Meeting of Lismore City Council will be held at the Council Chambers on Tuesday 12 August 2025 at 10.00am

Members of Council are requested to attend.

Lismore City Council acknowledges the Widjabul Wia-bal people of the Bundjalung nation, traditional custodians of the land on which we meet.

Eber Butron
General Manager

5 August 2025



ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A guiding checklist for councillors, staff and community committees

Ethical decision making

- Is the decision or conduct legal?
- Is it consistent with government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

Conflict of interest

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- Pecuniary – an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to yourself or another person or entity defined in part 4 of the Lismore City Council Code of Conduct with whom you are associated.
- Non-pecuniary – a private or personal interest that you have that does not amount to a pecuniary interest as defined in the Lismore City Council Code of Conduct. 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.

The test for conflict of interest

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

Identifying problems

- Do I have private interests affected by a matter I am officially involved in?
- Is my official role one of influence or perceived influence over the matter?
- Do my private interests' conflict with my official role?

Disclosure and participation in meetings

- A councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - a. at any time during which the matter is being considered or discussed by the Council or Committee, or
 - b. at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this clause 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 he or she had a pecuniary interest.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. participate in discussion but not in decision making or vice versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as of the provisions in the Code of Conduct (particularly if you have a significant non-pecuniary interest)

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

Agenda

1. Opening of Meeting

2. Acknowledgement of Country

3. Pause for reflection

4. Apologies and Applications for Leave of Absence or Attendance by Audio-Visual Link

5. Confirmation of Minutes

Lismore City Council held 8 July, 2025	116
Lismore City Council held 8 July, 2025	132

6. Disclosures of Interest

7. Mayoral Minute(s) and Condolence Motions

8. Reports of Committees

8.1 Local Traffic Committee - 16 July 2025	7
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9. Matters Arising

10. Reports of the General Manager

10.1 Review of Determination: DA23/301	12
10.2 Planning Proposal, Additional Permitted Use - 92 Dunoon Road, North Lismore	15
10.3 Clunes Master Plan	27
10.4 Investments - July 2025	32
10.5 Mayoral Delegations.....	38
10.6 2025 Local Government NSW Conference.....	40

11. Notices of Motion / Questions with Notice

11.1 Mayoral Attendance Report.....	45
11.2 Walk of Honour	47
11.3 Request for Update and Retention Options on Temporary Housing Pods	48
11.4 Investigating Log-Based Riverbank Restoration in Lismore LGA.....	49
11.5 Development of a New Climate Resilience Strategy.....	51
11.6 Developer Offsets Policy	52
11.7 Removal of Unlawful Footpath Obstructions & Signs.....	54
11.8 Withdrawing Old Policies.....	56
11.9 Council Weed Spraying Wilson Nature Reserve.....	63
11.10 Footpath on First Avenue	64
11.11 NSW EPA's FOGO Mandate	65
11.12 Dawson Street Roadworks	66
11.13 Pine Street Update	67

11.14	Policy Number 1.4.20	68
11.15	Recording Councillor Briefings	112

12. Confidential Business

12.1	Tender T532425RTC - Quarry Crushing and Screening Services at Blakebrook Quarry	114
12.2	Recommendation for Award: Casual Plant Hire Panel.....	114
12.3	Supply and Delivery of Bulk Fuel, Fuel Cards and Lubricants	114

Reports of Committees



Report of Committee

Local Traffic Committee - 16 July 2025

That the minutes be received and the recommendations contained therein be adopted.

Attachment/s

1. [↓](#) Minutes - Local Traffic Committee - 16 July 2025

Recommendations from the meeting of the Local Traffic Committee are reproduced below for the awareness of councillors, as these seek specific Council action:

Minutes of 16 July 2025

4.1 Request for Stop Sign - Intersection Skyline Road and East Skyline Road

That Council does not support the installation of a stop sign at the proposed location.

4.2 Request for Installation of four Bus Shelters

That Council supports in principle the installation of the proposed bus shelters and associated bus zones.

4.3 Request for Bus Shelter in Bexhill

That Council supports in principle the installation of a bus shelter and associated bus zone at the proposed location.

4.5 Request for Line Separation at the Intersection of McKenzie St and Dibbs St

That Council supports in principle the lane separation at the proposed location.

4.6 Request for Driveway Amendments of Aged Care Facility at Rous Rd and Oliver Ave Roundabout

That Council supports in principle the driveway amendments at the proposed location.

Local Traffic Committee Minutes 16 July 2025

MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD IN WILSONS ROOM ON WEDNESDAY, 16 JULY 2025 AT 9:00 AM

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Councillor Hall (Chairperson), A/Sgt Shannon Hudson (NSW Police), Bel Hanson (On Behalf of Janelle Saffin MP) and Ms Caleisse Dunston (Transport for NSW).

In Attendance

Ms Nolan, Manager Roads Planning, Mr Bennetts, Manager Roads Engineering, Ms O'Connor, Acting Coordinator Business Administration and Ms Underhill, Acting Senior Business Support Officer.

Apologies

Nil.

Confirmation of Minutes

Nil.

Disclosure of Interest

Councillor Hall disclosed that she is a bus operator but confirmed none of the bus shelters in Item 4.2 are on any of her routes.

4.1 Request for Stop Sign - Intersection Skyline Road and East Skyline Road

LTC7/25 **RECOMMENDED** that Council does not support the installation of a stop sign at the proposed location.

(Member Dunston/ Member Hanson)

Voting for: Councillor Hall, Members Dunston, Hanson and Hudson

Voting against: Nil

4.2 Request for Installation of four Bus Shelters

LTC8/25 **RECOMMENDED** that Council supports in principle the installation of the proposed bus shelters and associated bus zones.

Local Traffic Committee Minutes 16 July 2025

(Councillor Hall/Member Dunston)

Voting for: Councillor Hall, Members Dunston, Hanson and Hudson

Voting against: Nil

4.3 Request for Bus Shelter in Bexhill

LTC9/25 **RECOMMENDED** that Council supports in principle the installation of a bus shelter and associated bus zone at the proposed location.

(Councillor Hall/Member Dunston)

Voting for: Councillor Hall, Members Dunston, Hanson and Hudson

Voting against: Nil

4.4 Request for Roundabouts at 2 different intersections of Ballina Rd to Richmond Hill Rd and Cowlong Rd

LTC10/25 This item was withdrawn at the meeting as the proposed location is a State road and therefore under the jurisdiction of Transport for NSW.

4.5 Request for Line Separation at the Intersection of McKenzie St and Dibbs St

LTC11/25 **RECOMMENDED** that Council supports in principle the lane separation at the proposed location.

(Member Hanson/Member Dunston)

Voting for: Councillor Hall, Members Dunston, Hanson and Hudson

Voting against: Nil

4.6 Request for Driveway Amendments of Aged Care Facility at Rous Rd and Oliver Ave Roundabout

LTC12/25 **RECOMMENDED** that Council supports in principle the driveway amendments at the proposed location.

(Member Dunston/Councillor Hall)

Voting for: Councillor Hall, Members Dunston, Hanson and Hudson

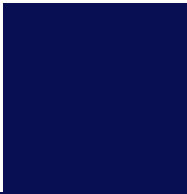
Voting against: Nil

Closure

Local Traffic Committee Minutes 16 July 2025

This concluded the business and the meeting terminated at 9:38am.

Reports of the General Manager



Report

Subject	Review of Determination: DA23/301
TRIM Record No	BP25/460:DA23/301
Prepared by	Executive Planner
Reason	Applicant has requested a review of determination. The matter was previously heard at Council meeting, so Review must also be heard at Council meeting. Additionally, the proposal includes a minimum lot size variation request, pursuant to clause 4.6 of the Lismore LEP 2012, that was beyond staff's delegations.
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Ensure land is available and serviced to meet population growth in locations that are accessible, close to services and employment, and suitable for development.

Executive Summary

Applicant has requested a review of determination for a Development Assessments (DA) that was determined by Council at the February 2025 Council meeting. The review of determination must be considered by Council again.

Council staff engaged the services of an external planning consultant to carry out an independent assessment of the review.

The consultant's assessment is summarised and attached to the report. The review concludes the proposal should not be supported. It is recommended Council confirm its original determination and maintain the Refusal.

Recommendation

That in accordance with the independent consultants' findings, Council confirm its original determination and maintain the Refusal.

Background

Original Decision

Development application DA23/301 was originally lodged on 29 November 2023. The proposal was for a two (2) lot subdivision, including a proposed dwelling on the proposed vacant lot, at 7 Booyong Road, Clunes. The proposal included a request to vary clause 4.1 of *Lismore Local Environmental Plan 2012* ('Lismore LEP 2012'), as the minimum lot size for the area was 2,500m², and the proposed lots measured 1,086m² and 1,380m² respectively.

Given the proposal included a variation to the Lismore LEP 2012 that was beyond staff delegations, DA23/301 was put to the Ordinary Council Meeting of 11 February 2025 for determination. Staff recommendation was that DA23/301 be Refused. The reasons for Refusal included insufficient planning grounds to support the minimum lot size variation; unsatisfactory onsite sewage management; and various non-compliances with the Lismore LEP 2012 and Lismore Development Control Plan ('Lismore DCP'). Council adopted the staff recommendation and resolved to Refuse the application.

Application for Review

Since the refusal, the applicant has lodged an application to review the determination, pursuant to section 8.2 of the *Environmental Planning and Assessment Act 1979*.

The review process allows an applicant to request that an application be re-assessed and the decision re-considered. After conducting the review, the consent authority must either confirm its original decision or change its determination.

The applicant submitted updated documentation to support their application to review the determination. The most relevant of the updated documentation is provided at **Attachment 1**.

Council staff engaged the services of an external planning consultant (Blueprint Planning Consultants) to carry out an independent assessment of the review. Blueprint Planning Consultants also independently selected a sub-contracted environmental specialist (Whitehead & Associates Environmental Consultants) to review the onsite sewerage management elements of the proposal.

Findings of the Review

The following is a summary of the consultants' findings. The full review by Blueprint Planning Consultants and Whitehead & Associates Environmental Consultants is provided at **Attachment 2**.

Planning Consultant's Findings

Blueprint Planning Consultants carried out the overall review, incorporating on Whitehead & Associates Environmental Consultants for advice on the onsite sewerage management elements. The following is a summary of the findings:

- Clause 4.1 of LEP 2012 requires a minimum lot size of 2,500m². Proposed Lot 1 is 1,086m² and proposed Lot 2 is 1,380m². Variation has been requested pursuant to clause 4.6 of Lismore LEP 2012. The submitted variation request does not satisfy the minimum variation criteria (i.e., compliance is not unreasonable or unnecessary in this instance; and there are not sufficient environmental planning grounds to justify the variation).
- Clause 6.9 of Lismore LEP 2012 requires services be made available for the disposal and management of sewage and stormwater drainage. The consultant is not satisfied that the proposal makes adequate arrangements for these services (for further details, see 'Environmental Consultant's Findings' below).
- Clause 4.3 of Lismore LEP 2012 sets a building height limit of 8.5m. The proposed dwelling is non-compliant with the maximum permissible height. Further, no variation has been sought.
- Clause 2.3(2) of Lismore LEP 2012 provides the objectives of the RU5 Village Zone. The development does not achieve the objectives of the zone, as the development is not of a design and scale that will enhance and preserve the village character; and does not make adequate provision for effluent disposal.
- The development does not comply with the provisions of Lismore DCP in respect to setbacks; overshadowing of the private open space; effluent and stormwater management; and bin enclosures.
- The development is poorly designed having regard to the location of the existing shed on proposed Lot 2, which will be functionally associated with proposed Lot 1 due to access being via the driveway on proposed Lot 1. This arrangement alienates the front setback area of proposed Lot 2 and will provide poor amenity for future residents of the dwelling on proposed Lot 2.
- The site is not suitable for the proposed development due its small area, steep slopes and additional constraints imposed by the existing structures on the site.

Blueprint Planning Consultants conclude that the proposal should not be supported and recommends that Council confirm its original determination and maintain the Refusal.

Environmental Consultant's Findings

Whitehead & Associates Environmental Consultants carried out the review of the onsite sewerage management elements of the proposal. The following is a summary of the findings:

- Steep slope constraints have not been satisfactorily accounted for in the design and location of the effluent disposal areas.
- The development does not achieve the required buffers to property boundaries and the nearby watercourse. Other buffers are not sufficiently addressed, and inconsistent throughout the report.
- Management of exposure, erosion risk, and rock outcrops have not been adequately addressed.
- Insufficient soil investigation was carried out to identify the soil landscape and is insufficient to justify the reduced width ETA beds.
- The development site is located within the drinking water catchment; however this has not been addressed by the applicant.
- Alternate (reserve) land application area (LAA) is required but has not been nominated.
- The report includes inconsistencies and other lesser technical issues.

Whitehead & Associates Environmental Consultants conclude that proposed Lot 1 would not be able to support a stand-alone on-site wastewater management system.

Comments

Finance

Nil

Conclusion

The consultant's assessment of the review concludes that the proposal should not be supported. It is recommended that Council confirm its original determination and maintain the Refusal.

Attachment/s

1. Appendix A - Applicant's Submission (Over 7 pages)
2. Appendix B - Review Assessment (Over 7 pages)

Report

Subject	Planning Proposal, Additional Permitted Use - 92 Dunoon Road, North Lismore
TRIM Record No	BP25/431:AF24/7133
Prepared by	Development Assessment Officer
Reason	Two objections received. Previous resolution/action identifies the proposal is to be returned to Council for consideration if objections were received.
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Ensure a diverse range of land use and development opportunities are available.

Executive Summary

On 10 December 2024 Council resolved to support a Planning Proposal to amend Lismore Local Environmental Plan 2012 (LEP) to create an Additional Permitted Use (APU) at Lot 11 DP 1096690; 92 Dunoon Road, North Lismore to allow for the subdivision of the land to create two (2) lots below minimum lot size. The Proposal allows the existing goods transport terminal and associated manager's residence to be located on a separate lot from the remainder of the farm, which includes a dwelling and ancillary farm buildings.

The Resolution resulting from Council's support for the Proposal resolved "*should any objections be made during the public exhibition stage that the planning proposal be reported back to Council. If no objections are received, the planning proposal be finalised and made, as per the delegation of the Gateway determination*"

Gateway Determination was received from DPHI on 17 January 2025 (included as Attachment 2) and Conditions contained within have been satisfied. During the Public Exhibition period two (2) submissions were received (included as Attachment 4). As such, the Planning Proposal is now being reported back to Council for consideration.

These objections, while noted, did not raise significant concerns which would undermine the Proposal's merits and the Proposal's alignment with legislative requirements and local strategic objectives remains.

As Conditions of the Gateway Determination have been satisfied, it is considered appropriate for Council to support the Planning Proposal and instruct the General Manager to make the amended changes to the LEP as previously resolved.

Recommendation

That:

1. Council support the Planning Proposal for Lot 11 DP 1096690; 92 Dunoon Road, North Lismore for amendments to the Local Environmental Plan as detailed within this report
2. the Planning Proposal be finalised in accordance with the delegation issued to Council by the Gateway Determination

Background

The subject Planning Proposal was prepared in respect to land described as Lot 11 DP 1096690; 92 Dunoon Road, North Lismore and was originally lodged with the NSW Planning Portal on October 17, 2024.

The Planning Proposal sought to create an APU to allow for the subdivision of the land to create two (2) lots below minimum lot size. The Proposal allows the existing goods transport terminal and associated manager's residence to be located on a separate lot from the remainder of the farm, which includes a dwelling and ancillary farm buildings. The LLEP 2012 specifically prohibits the subdivision of land below minimum lot size for certain zones, including RU1 Primary Production. Therefore, the only way for Council to consider the merits of the proposed subdivision is to first amend the LEP by way of a Schedule 1 Additional Permitted Use clause for the subject site.

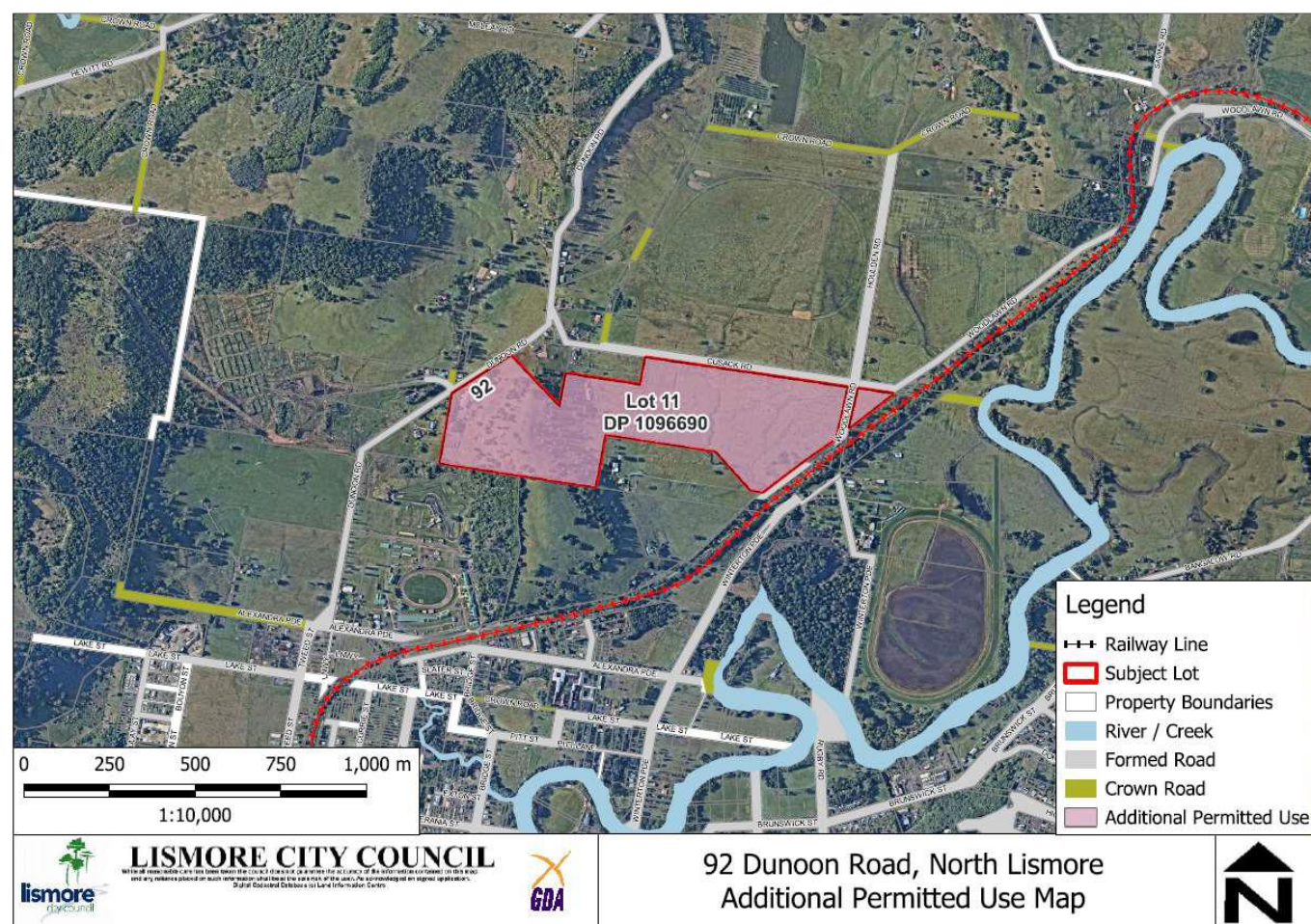


Figure 1. Proposed LEP Mapping amendment.

The Additional Permitted Uses LEP Map (APU_005A) will be amended as shown above to identify Lot 11 DP 1096690; 92 Dunoon Road, North Lismore as Item 9.

On 10 December 2024 Council resolved to:

1. forward the planning proposal to the Department of Planning, Housing and Infrastructure (DPHI) seeking a Gateway determination and proceeds to public exhibition in accordance with any Gateway requirements, and
2. confirms that should any objections be made during the public exhibition stage that the planning proposal be reported back to Council. If no objections are received, the planning proposal be finalised and made, as per the delegation of the Gateway determination

In relation to *Point 1*, Gateway Determination was received on 17 January 2025 and is provided in Attachment 2. The Conditions of the Gateway Determination required:

1. Administrative updates to the Planning Proposal;
2. Public Exhibition of the Planning Proposal as required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act; and,
3. Consultation with relevant public authorities and government agencies under section 3.34(2)(d) of the Act (being NSW Rural Fire Service and Ngulingah Local Aboriginal Land Council).

The administrative updates to the Planning Proposal were made on 7 July 2025 (included in Attachment 1) and public exhibition and consultation were undertaken. Submissions received during this process are detailed below (and provided in full within Attachment 4).

Given the submissions received, the matter is now reported back to Council in accordance with the previous resolution.

State Agency and Public Feedback

State Agency

As above, per *Condition 3* of the Gateway Determination, the Planning Proposal was referred to *NSW Rural Fire Service* and *Ngulingah Local Aboriginal Land Council* on 2 May 2025 for a period of 30 days.

No response from either of these referrals was received within the nominated period of 30 days, though a response from *NSW Rural Fire Service* was received on 7 July 2025 which raised no objections and advised “*Future development on mapped bushfire prone land is to satisfy Planning for Bushfire Protection guidelines*” (and provided in full within Attachment 5).

Public Exhibition

Public Exhibition occurred from 12 May 2025 to 9 June 2025 by placement on the *NSW Planning Portal*, *Lismore City Council* website, and in *Local Matters*, as well as via neighbour Notification letters.

Two (2) submissions were received during the notification period and are provided in full within Attachment 4. *Table 1* below provides a summary of the objections received.

Objection Raised		Officers Comment
1.	<i>“I do not want this proposition to go ahead.”</i>	Noted. Given no specific reason/s are identified, no specific comments are provided and further consideration is not required.
2.	<i>“Staff provides no evidence of benefit to the exemption of this</i>	A comprehensive site-specific assessment has been conducted, confirming the Proposal meets legislative requirements and upholds Lismore City Council’s planning intents (i.e. North Coast

	<p><i>property to the minimum lot size. The hollow rationale provided "This will allow the existing goods transport terminal and associated manager's residence to be located on a separate lot from the remainder of the farm, which includes a dwelling and ancillary farm buildings." is an irrelevancy. Why does this situation that has worked fine for years suddenly become INEXPLICABLY unsatisfactory. The only reason I can think of is the significantly increased real estate value eventuating. I point out the fact the residence is on a lot size below the minimum. Such an exception is a unwarranted, unjustifiable precedent.</i></p>	<p>Regional Plan 2041, Local Strategic Planning Statement, local strategic objectives, etc.). The Gateway Determination from the Department of Planning and Housing Infrastructure (DPHI) further validates the merits of the proposal, emphasising its potential to support local economic activities while maintaining agricultural viability. This proposal does not set an unwarranted precedent but rather addresses specific operational needs within the local context, ensuring the tailored approach enhances land use management while safeguarding both agricultural and operational needs in the region.</p>
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Table 1. Summary of submissions received during Public Exhibition.

Conclusion and next steps

The Planning Proposal to create an APU to allow for the subdivision of the land to create two (2) lots below minimum lot size is consistent with relevant legislative requirements and *Council* policies and strategies and is confirmed in its appropriateness by way of the Gateway Determination; similarly public exhibition revealed no significant concerns.

As Conditions of the Gateway Determination have been satisfied, it is considered appropriate for Council to support the Planning Proposal and instruct the General Manager to make the amended changes to the LEP as follows:

1. *Create an Additional Permitted Use that would allow for the subdivision of the land to create two lots that are below minimum lot size at 92 Dunoon Rd, North Lismore.*
2. *To alter the Additional Permitted Uses Map to add/identify 92 Dunoon Road, East Lismore as being a property where there is an Additional Permitted Use.*

Attachment/s

1. Attachment 1 - Planning Proposal - 92 Dunoon Road North Lismore (Over 7 pages)
2. [↓](#) Attachment 2 - PP-2024-2297 - Gateway Determination
3. [↓](#) Attachment 3 - PP-2024-2297 - Letter to Council
4. [↓](#) Attachment 4 - Online Submissions - 92 Dunoon Road North Lismore
5. [↓](#) Attachment 5 - NSW Rural Fire Service Response - PP-2024-2297 - 92 Dunoon Road NORTH LISMORE



Department of Planning, Housing and Infrastructure

Gateway Determination

Planning proposal (Department Ref: PP-2024-2297): to facilitate a two-lot subdivision as an additional permitted use on Lot 11 DP 1096690, 92 Dunoon Road, North Lismore

I, the Director, Hunter and Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Lismore Local Environmental Plan 2012 to facilitate a two-lot subdivision as an additional permitted use on Lot 11 DP 1096690, 92 Dunoon Road, North Lismore should proceed subject to the following conditions Gateway conditions.

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed within 9 months from the date of the Gateway determination.

Gateway Conditions

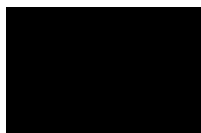
1. Prior to agency and community consultation, the planning proposal is to be updated to:
 - (a) remove the draft wording for Schedule 1 Additional permitted uses;
 - (b) identify that it is intended to require the consent authority to consider and be satisfied in relation to certain matters before the granting of development consent for a two-lot subdivision on the land;
 - (c) include additional detail in relation to flooding, including a map that demonstrates the inundation of the site and further details regarding access to the existing farmhouse via Cusack Road (including the type of event that will affect the access as well as the duration that the road is inaccessible and potential alternate arrangements if needed);
 - (d) update the reference to Aboriginal Cultural Heritage to refer to Section C 9(d); and
 - (e) reference the current Local Environmental Plan Making Guideline (August 2023).

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
 - NSW Rural Fire Service
 - Ngulingah Local Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 17 January 2025



Craig Diss
Director, Hunter and Northern Region
Local Planning and Council Support
Department of Planning, Housing and
Infrastructure

**Delegate of the Minister for Planning and
Public Spaces**

**Department of Planning, Housing and Infrastructure**

Mr Jon Gibbons
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Our ref: IRF24/2908

Via email: peter.whittaker@lismore.nsw.gov.au
council@lismore.nsw.gov.au

Dear Mr Gibbons

Planning proposal PP-2024-2297 to amend Lismore Local Environmental Plan 2012

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to facilitate a two-lot subdivision as an additional permitted use on Lot 11 DP 1096690, 92 Dunoon Road, North Lismore.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act 4.2 Coastal Management and 9.2 Rural Lands is justified in accordance with the terms of the Direction. No further approval is required in regard to these directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act 4.1 Flooding and 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the LEP being made.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised within 9 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made directly to Parliamentary Counsel's Office well in advance of the date the LEP is projected to be made. A copy of the request should be forwarded to the Department of Planning, Housing and Infrastructure.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and

Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required. Should you have any enquiries about this matter, I have arranged for Georgia Weallans, Planning Officer to assist you. Ms Weallans can be contacted on 5778 1413.

Yours sincerely



7/1/25

Craig Diss
Director, Hunter and Northern Region
Local Planning and Council Support

Encl: Gateway determination

Survey Responses

13 May 2025 - 11 June 2025

Planning Proposal - Online Submission Form

Your Say Lismore

Project: PUBLIC NOTICE: Planning Proposal - 92 Dunoon Road NORTH LISMORE



VISITORS					
4					
CONTRIBUTORS			RESPONSES		
2			2		
0	0	2	0	0	2
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous



Respondent No: 1

Login: Anonymous

Email: n/a

Responded At: May 23, 2025 20:01:17 pm

Last Seen: May 23, 2025 20:01:17 pm

IP Address: n/a

Q1. Name

Matthew Mauger

Q2. Address

[REDACTED]

Q3. Email

[REDACTED]

Q4. Submission

I do not want this proposition to go ahead.



Respondent No: 2

Login: Anonymous

Email: n/a

Responded At: Jun 05, 2025 07:51:45 am

Last Seen: Jun 05, 2025 07:51:45 am

IP Address: n/a

Q1. Name

PAUL RECHER

Q2. Address

[REDACTED]

Q3. Email

[REDACTED]

Q4. Submission

Staff provides no evidence of benefit to the exemption of this property to the minimum lot size. The hollow rationale provided "This will allow the existing goods transport terminal and associated manager's residence to be located on a separate lot from the remainder of the farm, which includes a dwelling and ancillary farm buildings." is an irrelevancy. Why does this situation that has worked fine for years suddenly become INEXPLICABLY unsatisfactory. The only reason I can think of is the significantly increased real estate value eventuating. I point out the fact the residence is on a lot size below the minimum. Such an exception is a unwarranted, unjustifiable precedent.



Lismore City Council
PO Box 23A
LISMORE NSW 2480

Your reference: (REF-3676) PP-2024-2297
Our reference: SPI20250507000107

ATTENTION: Leanne Burns

Date: Monday 7 July 2025

Dear Sir/Madam,

Strategic Planning Instrument
LEP Amendment - Planning Proposal
Lismore Local Environment Plan 2012 - Additional Permitted Use Map - 92 Dunoon Road North Lismore

I refer to your correspondence dated 06/05/2025 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The planning proposal is to amend the Lismore Local Environment Plan (LEP) 2012 to allow an additional permitted use being the subdivision of land to create two lots that are below minimum lot size at 92 Dunoon Road, North Lismore.

The planning proposal seeks to create an Additional Permitted Use (APU) to allow for the subdivision of the land to create two lots that are below minimum lot size. This will allow the existing goods transport terminal and associated manager's residence to be located on a separate lot from the remainder of the farm, which includes a dwelling and ancillary farm buildings.

Future development on mapped bushfire prone land is to satisfy Planning for Bushfire Protection guidelines.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Anna Jones
Manager Planning & Environment Srv (Nth)
Built & Natural Environment

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

Report

Subject	Clunes Master Plan
TRIM Record No	BP25/473:EF24/56
Prepared by	Senior Strategic Planner
Reason	Seeking endorsement to commence public consultation of the Draft Clunes Master Plan by Council
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Provide opportunities for community engagement in the preparation of land-use strategies and zone reviews.

Executive Summary

The Clunes Master Plan was identified as a strategic planning initiative under the Growth and Realignment Strategy (2022) and was included as a key action in Council’s previous Delivery Program and Operational Plan.

To ensure the plan reflects the aspirations and needs of the Clunes community, Council undertook two phases of community engagement between October and December 2024. These consultations provided valuable insights that helped shape the direction and priorities of the draft Master Plan.

The preparation of the draft Master Plan has incorporated comprehensive collaboration with both internal Council and external stakeholders, including NSW State agencies and the local Clunes community Master Plan Reference Group. As a result, a draft Master Plan is recommended for public exhibition.

Recommendation

That Council:

- 1. publicly exhibit the draft Clunes Master Plan for a period of 28 days
- 2. submissions received be reported to Council for consideration and adoption of the plan

Background

Clunes is a vibrant, close-knit village with a distinct rural character, contributing significantly to the identity of Lismore and the Northern Rivers region. Recognising the importance of planning for Clunes’ future, Council resolved to develop a master plan prior to considering any land in the vicinity of Clunes for inclusion in the Growth and Realignment Strategy 2022 (GRS). This initiative was identified as a key action (D3.2.03) in Council’s previous Operational Plan and Delivery Program.

Development of the Master Plan commenced in late 2024 with two periods of community engagement to ensure that the Master Plan truly represented the community values. To assist this objective, and in accordance with the commitment made in the GRS, Lismore City Council established a community reference group for the Master Plan.

Community Reference Group

The Clunes Master Plan Reference Group was established through a public expression of interest process, with members selected from 43 submissions to ensure a balanced representation of age, gender, interests,

and connections to local organisations. Ten (10) community representatives were appointed to the group. The group has played an important advisory role throughout the project, acting as a sounding board to test engagement outcomes and providing strategic input for the final master plan, ensuring alignment with community values prior to broader public consultation.

Master Plan Objectives

The Clunes Master Plan is guided by the following objectives:

- 1. Community Vision and Engagement**
Foster an inclusive process that engages residents and stakeholders to co-create a shared vision for Clunes. The plan will reflect community aspirations and define Clunes' role within the Northern Rivers region.
- 2. Sustainable Development**
Integrate environmental, social, and economic sustainability principles. Promote practices that minimise environmental impact, enhance biodiversity, and build resilience to climate change.
- 3. Infrastructure Planning**
Identify future requirements for transport, water, wastewater, electricity, and community infrastructure. Include an options assessment and preliminary costings for wastewater treatment.
- 4. Urban Design**
Explore options for active transport connections, traffic calming, and micromobility. Investigate potential alternate centres of activity within the village.
- 5. Housing Diversity**
Address regional housing needs and reflect state and local government targets for diversity and affordability.
- 6. Agriculture and Land Use Conflict**
Acknowledge potential loss of agricultural land due to village expansion. Protect surrounding agricultural land and establish buffers between residential and rural uses.

Engagement Activities and Community Response

Community engagement for the Clunes Master Plan was undertaken in two (2) phases.

Phase 1 – October 2024

Phase 1 ran from 05 October to 15 October 2024. This included 400+ people visiting the Clunes Master Plan Your Say page, two face-to-face workshops held and 75 individual responses to the survey.

Key Takeaways from Phase 1 Engagement

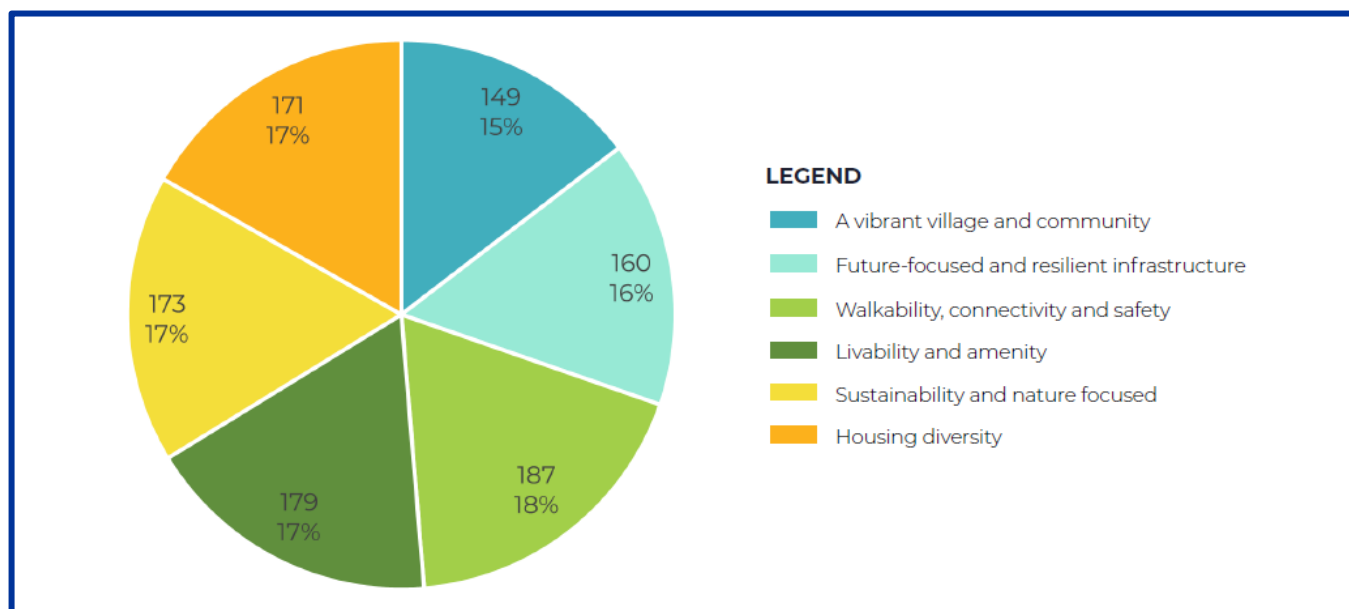
- 1. Community Identity:** Clunes is valued for its peaceful village atmosphere, strong community spirit, and rural charm.
- 2. Infrastructure Gaps:** Residents identified critical gaps in infrastructure and amenities that should be addressed before future development.
- 3. Concerns About Overdevelopment:** There is strong community preference for modest, well-planned growth that protects village character and biodiversity.
- 4. Sustainable and Inclusive Vision:** The community supports a future that balances growth with environmental stewardship, housing diversity, and walkability.
- 5. Community-Led Planning:** Ongoing, meaningful engagement is essential, with planning driven by local needs and values.

Insights gathered during Phase 1 of the Clunes community engagement process, included as Attachment 1 with this report, directly informed the development of an initial draft vision and a set of supporting themes for the Clunes Master Plan. These themes were shaped by the community's expressed values, aspirations, and concerns, and are intended to guide the strategic priorities and focus areas of the Master Plan.

Phase 2 – December 2024

The draft vision and supporting themes were then presented for further community input during Phase 2 of consultation, held from 4 December to 18 December 2024. This phase included a detailed online survey, which received 70 responses included as Attachment 2 with this report, and two face-to-face drop-in sessions. Feedback collected during these sessions, along with targeted discussions with key stakeholders, ensured broad and inclusive representation of community perspectives. This input played a key role in validating and refining the draft vision and supporting themes.

Summary of the feedback from Phase 2 Engagement



- **77%** of respondents either *definitely agreed* (43%) or *somewhat agreed* (34%) with the draft vision statement for Clunes, indicating broad alignment with the proposed direction
- **29%** of respondents prioritised *safe connections to surrounding areas*, with strong support also for *improved pedestrian safety* (**21%**) and *traffic calming* (**18%**)
- **32%** of respondents identified *biodiversity and wildlife corridor protection* as the top sustainability priority, followed by *preserving rural vistas* (**23%**) and *rainforest regeneration* (**19%**)
- **25%** of respondents highlighted *reticulated sewerage* as a key infrastructure need, alongside *water security* (**22%**) and *improved telecommunications* (**20%**)
- **23%** of respondents supported *planning controls and housing options for young families*, while **17%** emphasised the need for *downsizing opportunities that respect Clunes' village character*

The community also provided feedback that an additional theme of cultural heritage should be included within the Master Plan. Feedback from the second round of engagement seek to underpin key priorities within the overarching vision and are intended to guide the areas of focus for the development of the Master Plan for Clunes.

Consultation summary reports for both phases of the consultation were published back to the community on the Clunes Master Plan Your Say webpage.

Key Aspects of the Clunes Master Plan

The draft Clunes Master Plan, included as Attachment 3 with this report, provides a long-term framework to guide the future of the village, ensuring it is well-positioned to respond to growth, infrastructure needs, and community aspirations. The Master Plan confirms the community-reviewed vision and incorporates six previously identified themes, with the seventh, Country-Centred Approach, added in response to feedback.

The seven themes, based on the community feedback are:

1. **A Vibrant Village and Community** – Strengthening social connection and community identity
2. **Future-Focused and Resilient Infrastructure** – Planning infrastructure to support long-term needs
3. **Walkability, Connectivity and Safety** – Enhancing pedestrian access and transport links
4. **Liveability and Amenity** – Improving public spaces, services, and facilities
5. **Sustainability and Nature-Focused** – Protecting biodiversity and the natural environment
6. **Housing Diversity** – Supporting a range of housing options to meet changing needs
7. **Country-Centred Approach** – Embedding respect for place, landscape, and cultural values

To deliver the level of growth and change identified as necessary by both State and Local Government, and acknowledged by the community, a number of issues must first be addressed. The Clunes Master Plan responds to these challenges through five key moves, each of which will be designed and guided by the seven community-endorsed themes with controls in place to ensure they are delivered at an appropriate timeframe.

The five key moves are:

1. **Improve the safety and amenity of the village**– Improve road safety, pedestrian infrastructure, and open space
2. **Deliver more diverse and affordable housing in Clunes**– Provide a range of housing types for different life stages and household needs
3. **New Connector Road** – Establish a new road link to support growth and reduce traffic impacts
4. **Sewer Framework** – Deliver staged wastewater infrastructure to enable sustainable development
5. **Support Community-Led Initiatives** – Foster resilience and sustainability through local leadership

Delivery Framework

The Delivery Framework outlines how the Clunes Master Plan will be implemented, including Council's role in managing the staging and sequencing as well as indicative timing and broad cost ranges. It comprises of two components:

1. Adaptive Pathways for Rezoning

This component of the Delivery Framework is presented as a flow chart that sequences development in alignment with the delivery of critical infrastructure, such as the connector road and sewer network, while allowing flexibility to adapt to external market conditions. It sets clear expectations for open space and sport provision and confirms control mechanisms within the Lismore Local Environmental Plan (LEP), such as the Urban Release Area clause, can be activated to development applications from proceeding until essential infrastructure is secured.

The Adaptive Pathways process ensures that any future expansion of Clunes is carefully staged and controlled. It supports long-term village benefits and ensures that development is not only responsive but also responsibly managed in line with community needs and infrastructure capacity.

3. Action Table

This section outlines a series of Council-led actions, ranging from immediate priorities to long-term initiatives. Each action is clearly linked to relevant themes and key strategic moves and is supported by details on delivery partners and estimated costs. Furthermore, the document establishes a framework for ongoing monitoring, review, and reporting to Council, ensuring transparency and accountability throughout the implementation process.

Public exhibition of the Draft Clunes Master Plan

A formal public exhibition period will be held to support the development of the Clunes Master Plan. This exhibition will run for a minimum of 28 days across August and September and will include both online and face-to-face opportunities for community input. The exhibition approach has been shaped by feedback from the community reference group to ensure it is inclusive, accessible, and responsive to local needs.

Conclusion

The Draft Clunes Master Plan provides a comprehensive and community-informed framework to guide the sustainable growth and development of Clunes over the long term. It responds to regional planning directives, integrates infrastructure delivery with land use planning, and reflects the values and aspirations of the local community.

The Delivery Framework ensures that development is staged, infrastructure is delivered in a timely and coordinated manner, and community expectations around amenity, open space, and connectivity are met. Importantly, the plan incorporates mechanisms within the Lismore Local Environmental Plan (LEP) to manage growth responsibly and prevent premature development.

It is recommended that Council endorse the Draft Clunes Master Plan for the purpose of public exhibition. This will allow the broader community and stakeholders to review and provide feedback on the proposed vision, strategies, and implementation actions prior to finalisation.

Attachment/s

1. Public Consultation Phase 1 - Your Say Survey (redacted) (Over 7 pages)
2. Public Consultation Phase 2 - Your Say Survey (redacted) (Over 7 pages)
3. Draft Clunes Master Plan - Public Consultation August 2025 (Over 7 pages)

Report

Subject	Investments - July 2025
TRIM Record No	BP25/552:EF22/122-4
Prepared by	Financial Accountant
Reason	Required by Local Government Act 1993, Local Government (General) Regulation 2021 and Council's Investment Policy
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Executive Summary

The *Local Government Act 1993* (Section 625), *Local Government (General) Regulation 2021* (Clause 212) and Council's Investment Policy requires a monthly report be submitted to Council on investments. The report is to include the source and amount of funds invested, investment portfolio performance for the period and a statement of compliance in relation to the requirements of the *Local Government Act 1993*.

All investments with various financial institutions have been made in accordance with the *Local Government Act 1993* and *Local Government (General) Regulation 2021*.

<u>Cash and Investments Breakdown</u>	\$
A1: Operational Cash Accounts	529,864
A2: Restricted Operational Cash Accounts	2,072,069
A Total Operational Cash Accounts	2,601,933
B1: Investments: Business Online Saver Cash Account	19,318,677
B2: Other Investments including Term Deposits	77,014,930
B Total Investments	96,333,608
C1: Flood Works Advanced Funding for Roads	86,386,416
C2: Flood Works Advanced Funding for Buildings	19,605
C3: Flood Works Advanced Funding for Waster	6,263,127
C Total Flood Works Advanced Funding	92,669,147
Total Cash, Investments and Advanced Funding	191,604,688

Operational Cash Accounts (Line A1)

Council maintains an operational bank account for general purposes including employee costs, creditor payments, and expenditure on the capital works program. These funds are not part of the investment portfolio. The month-end balance is reflected at line A1.

Restricted Operational Cash Accounts (Line A2)

These include funds held in separate accounts for specific grant-funded projects and trust obligations that legally or contractually require isolation from general funds. These balances are also excluded from the investment portfolio and are reflected at line A2.

Investments: Business Online Saver Cash Account (Line B1)

This account offers short-term liquidity and is used to optimize interest earnings when there are surplus funds in operational accounts. Funds are transferred in or out of this account as needed for operational costs. This account is part of the investment portfolio, and the balance is listed at line B1.

Investments: Other Investments including Term Deposits (Line B2)

Primarily composed of term deposits, these are longer-term investments held with authorized deposit-taking institution (Banks and Credit Unions). These investments are made in order to maximise investment earnings. Council is limited in its investment options in accordance with the Minister's Investment Order and the Investment Policy adopted by Council. The month-end balance is noted at line B2.

Investments Restricted

Note that while Council holds significant investments the majority of these investments relate to externally and internally restricted assets. Externally restricted assets include unexpended grants, developer contributions, water and sewer funds, Stormwater Management, Domestic Waste, Waste Minimisation and Trust funds. Internally restricted assets include unexpended special rate variations, carry forward works, Emergencies Reserve, Economic Development and Growth reserve and the Public Infrastructure and Buildings reserve. Reserves are made up of the water fund, the sewer fund, developer contributions, and grant funded projects that do not require a separate bank account.

Advance Flood Works Funding (Lines C1, C2, C3)

Council has received advanced funding for approved flood restoration works across:

- Roads (C1)
- Buildings (C2)
- Waste (C3)

These funds are held in an overnight money market account to ensure liquidity, earning interest at 3.93% (RBA Cash Rate + 0.08%). As these funds are committed to specific flood recovery projects, they are **not included** in Council's investment portfolio report.

Socially Responsible Investments

In June the percentage of the portfolio invested in Socially Responsible Investments (SRI) has increased to 47% from 34%, the total value of SRI's was increased to \$45 million from a \$40 million balance the previous month.

The portfolio balance will fluctuate from month to month depending on the timing of payments, rates and grant funds being received.

Investments returns

July investments returned 4.43%, this is compared to the annualised Bank Bill (BB) Index bank rate of 3.60%. For the 12 months ended July 2025, Council's portfolio has returned 4.79% compared to the Annualised BB Index bank rate of 4.31%.

Recommendation

That the report be received and noted.

Background

The *Local Government Act 1993* (Section 625), *Local Government (General) Regulation 2021* (Clause 212) and Council's Investment Policy requires a monthly report be submitted to Council on investments. The report is to include the source and amount of funds invested, investment portfolio performance for the period and a statement of compliance in relation to the requirements of the *Local Government Act 1993*.

Report on Investments

	Current Month Face Value*	Current Month Current Value**	Previous Month Face Value	Previous Month Current Value	Average Monthly Return	AusBond BB Index Monthly Return	Fossil Free Invest
July 2025	\$96,333,608	\$97,748,841	\$117,693,580	\$119,028,808	4.43%	3.60%	47%

*The face value represents the purchase price of investments.

**The current value is the value of investments at today's date and includes any interest owed but not paid

The portfolio balance will fluctuate from month to month depending on the timing of payments, rate receipts and grant funds received. In July, Council incurred operational expenses, such as employee costs, creditor payments, expenditure in relation to the capital works program and incurred further expenditure on flood restoration works which is yet to be reimbursed (note: a payment to one supplier of \$3.1 million).

In addition (as noted above), Council has approximately \$530k held in an operational bank account. This has not included in the Investment portfolio.

Council also held approximately \$2.072 million in restricted bank accounts; being amounts held for specific grants that required bank accounts and amounts held in trust. These are not included in the Investment portfolio.

Council also holds advance flood funding of approximately \$92.669 million to expend on approved restoration works. These funds are held in an overnight money market account to maintain liquidity, the account is earning a rate of return of 3.93%.

Socially Responsible Investments

Where the opportunity arises, Council will seek SRI investment opportunities. However the investment product will be considered in the context of Council's overall cashflow requirements, investment returns and the security of the investment.

It is important that when deciding on investments Council takes into consideration its overall portfolio strategy and the need to diversify its portfolio. SRI products offer Council a different pool of investment products and therefore can be used as a way to diversify its portfolio.

Council's value of ethical investments as of 31 July 2025 was \$45 million, the percentage of the portfolio held in SRI's is 47%.

* Note - this includes Fossil Fuel Free Investments

Portfolio structure

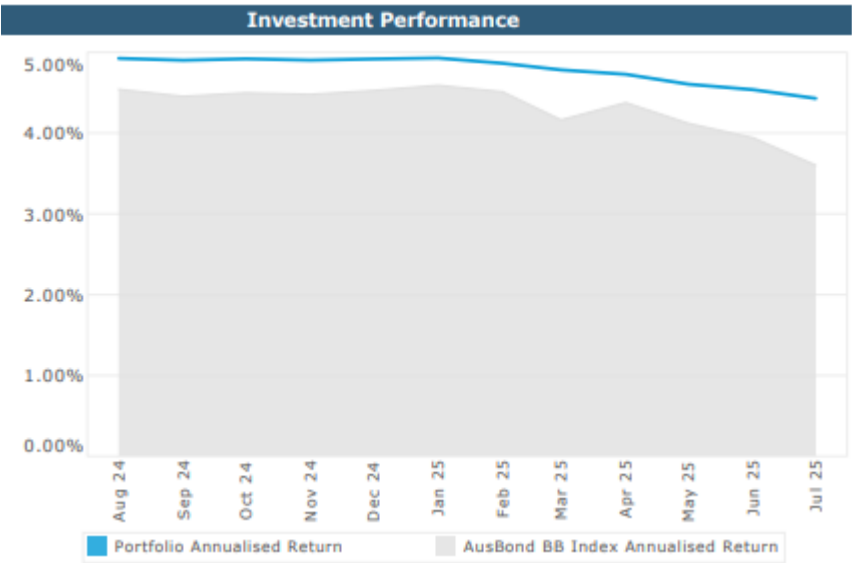
Council is limited in its investment options in accordance with the Minister's Investment Order and the Investment Policy adopted by Council. The current portfolio is split between cash and fixed deposits. These offer a lower return to other products however have a greater security around capital protection.

Lismore City Council
Executive Summary - July 2025

Investment Holdings

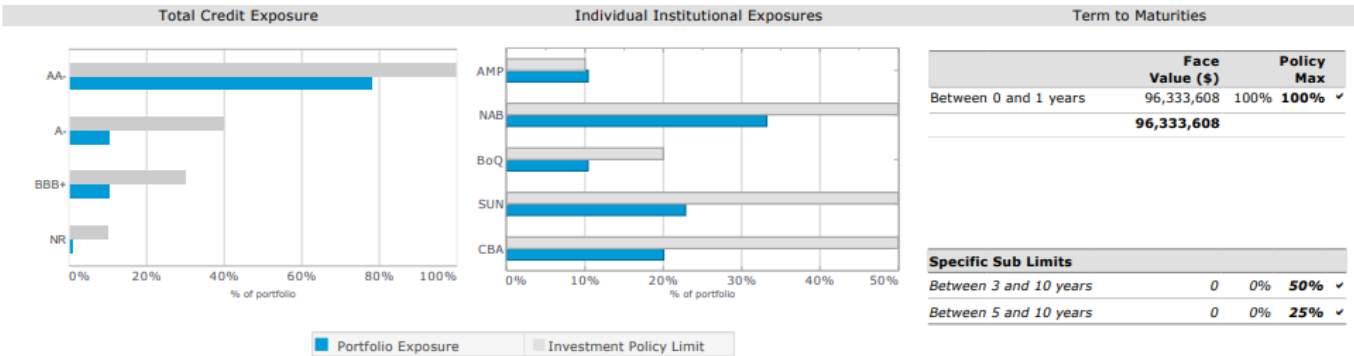
	Face Value (\$)	Current Value (\$)	Current Yield (%)
Cash	19,333,608	19,333,608	3.9287
Term Deposit	77,000,000	78,415,233	4.6092
	96,333,608	97,748,841	4.4726

Investment Performance



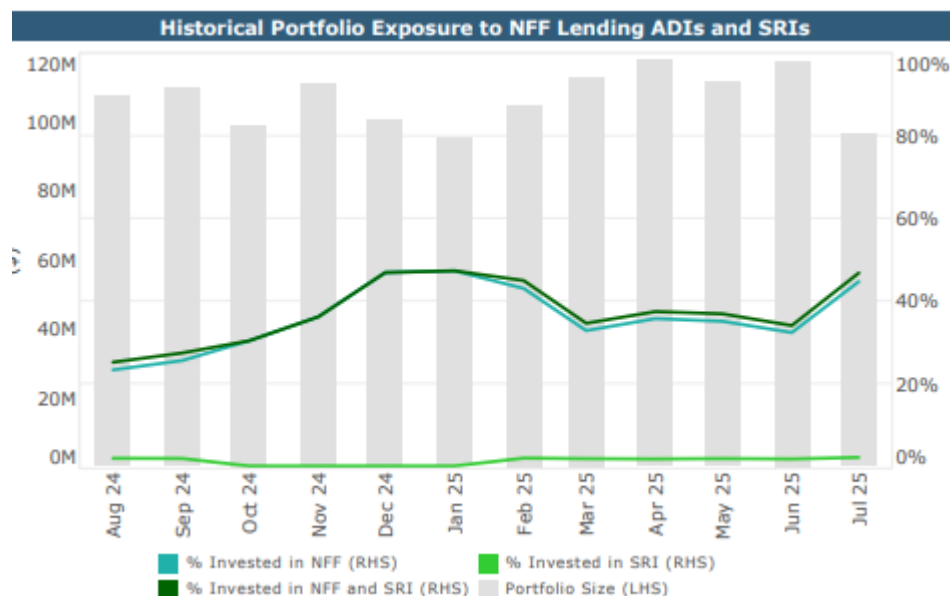
For the last 12 months Council has consistently achieved a return better than the Annualised BB Index return.

Compliance with Policy Requirement



For the month of July Council has remained within the policy requirements.

Socially Responsible Investments (SRI's)



Maintaining adequate liquidity to progress flood restoration works.

An additional constraint on Council moving to Ethical Investments is the requirement to maintain appropriate liquidity to ensure flood restoration works continue within an acceptable timeframe whilst waiting for reimbursement from NSW and Australian Government agencies.

The following amount has been included in the Investment Portfolio.

- Commonwealth Bank of Australia Business Online Saver account: \$19,318,677.

This is a short-term overnight money account and is used for liquidity purposes, that is to provide access to funds to meet Council's short term payment commitments. This account includes fossil fuel investments, however Council is restricted in its options of available providers to provide short term liquidity whilst providing returns greater than the cash rate.

If these accounts are excluded, then Council's Ethical Investment ratio is 58%.

Comments

Responsible Accounting Officer

All investments with various financial institutions have been made in accordance with the *Local Government Act 1993* and *Local Government (General) Regulation 2021*.

Conclusion

A report on investments is required to be submitted to Council monthly.

The value of the portfolio for July 2025 is provided.

Attachment/s

1. LCC July 2025 Prudential Investment Report (Over 7 pages)

Report

Subject	Mayoral Delegations
TRIM Record No	BP25/512:EF09/549-7
Prepared by	Governance & Risk Manager
Reason	To provide the Mayor with financial delegations
Strategic Theme	Leadership
Strategy	Ensure effective governance, advocacy, engagement and partnerships with a focus on long-term financial sustainability
Action	Provide responsible, transparent and accountable leadership with sustainable management of Council finances, assets, risks and human resources

Executive Summary

To seek Council approval to delegate authority to the Mayor for the use of a corporate credit card up to a limit of \$1,500 per month to support the execution of official duties.

Recommendation

That Council:

1. approves the delegation of authority to the Mayor for the use of a corporate credit card with a monthly limit of \$1,500
2. require all expenditure incurred under this delegation:
 - to comply with Council's Procurement Policy, Credit Card Policy, and Code of Conduct
 - to be submitted for approval and acquittal through the same process required of Council employees
 - to be included in regular internal reports and the annual public report on councillor expenses and facilities in accordance with the Office of Local Government Guidelines

Background

The Mayor plays a key civic leadership role, attending community and official events, hosting delegations, and responding to emerging matters on behalf of Council. In carrying out these duties, there are occasionally minor, unanticipated costs that fall outside regular allowances or require immediate payment.

Currently, the absence of a direct mechanism for the Mayor to make such payments (eg. small hospitality or event-related expenses) can result in procedural delays or the need for staff intervention.

To support the effective execution of the mayoral role, a limited delegated spending authority and a Council-issued corporate credit card is proposed.

Expenditure examples may include:

- Hosting visiting delegations or local community leaders
- Purchasing small items or civic tokens of appreciation in line with Council policies
- Incidental travel-related or event-based costs not otherwise reimbursable.

Comments

Finance

No specific issues or concerns.

Public consultation

Not required.

Conclusion

Providing the Mayor with a limited spending delegation and a corporate credit card will support the efficient and responsive execution of mayoral responsibilities, reduce administrative burden, and ensure financial controls remain in place. The approach aligns with local government best practice and maintains transparency and public accountability. This is not an unprecedented practice amongst other councils.

Attachment/s

There are no attachments for this report.

Report

Subject	2025 Local Government NSW Conference
TRIM Record No	BP25/383:EF19/25-7
Prepared by	Executive Officer - General Manager and Mayor & Councillors
Reason	To decide on delegates to attend the Conference and consider notices of motion for submission
Strategic Theme	Leadership and participation
Strategy	We provide effective management and responsible governance.
Action	Ensure the efficient and effective operation of Council.

Executive Summary

The 2025 Local Government NSW Conference will be held at Penrith from Sunday 23 to Tuesday 25 November 2025.

Council is required to determine its three voting delegates and any proposed motions to be submitted to the Conference.

Recommendation

That:

1. Council's three voting delegates to the 2025 Local Government NSW Conference are Councillors Krieg, and
2. Council submit the following motions

Background

The 2025 Local Government NSW (LGNSW) Conference will take place in Penrith from Sunday 23 to Tuesday 25 November 2025.

Lismore City Council is entitled to three voting delegates. The Councillors Expenses and Facilities Policy 1.2.23 clause 6.30 states the delegates will be the Mayor, or their nominee, and two councillors. A decision on voting delegates is required to meet the deadline to provide the names to LGNSW.

For three councillors attending, this is estimated to cost \$9,000, which includes conference fees, travel and accommodation.

The Conference is the main policy making event for the local government sector where issues are debated and motions put forward for consideration by delegates.

Councillors were asked to submit notices of motion for debate and the attached were received for consideration.

Comments

Finance

The recommendation as printed is supported.

Lismore City Council

Meeting held 12 August 2025 - 10.6 - 2025 Local Government NSW Conference

Attachment/s

1. [↓](#) LGNSW Notice of Motion Submission - Disaster Ready Fund
2. [↓](#) LGNSW Notice of Motion - Land & Environment Court of NSW Challenges

LGNSW NOTICE OF MOTION SUBMISSION FORM

17/07/2025 11:21 AM (AEST)

Submitted by steve.krieg@lismore.nsw.gov.au

LGNSW Notice of Motion Submission Form

Councillor Name	Krieg
Email	steve.krieg@lismore.nsw.gov.au
Motion Title	Disaster Ready Fund
Motion Wording	<p>That LGNSW lobby the state government to establish a disaster ready fund, to enable councils to be able to rebuild critical infrastructure in a timely manner. This fund can also be used for disaster preparedness projects, so that as a state, we are better prepared for potential future disasters.</p>
Motion Background	<p>For too long, as a state, we have relied on budget allocations and the whim or will of ministers in the recovery post a disaster. Queensland established a Disaster Ready Fund to be able to respond immediately to disaster recovery, and also to build infrastructure to better prepare communities for potential future hazards. The New South Wales government, through the NSWRA should be adopting the same model to make recovery post a disaster far more equitable across LGA's.</p>
Hidden	Yes

LGNSW NOTICE OF MOTION SUBMISSION FORM

3/07/2025 10:24 PM (AEST)

Submitted by big.rob@lismore.nsw.gov.au

LGNSW Notice of Motion Submission Form

Councillor Name	Big Rob
Email	big.rob@lismore.nsw.gov.au
Motion Title	Land & Environment Court of NSW Challenges
Motion Wording	<p>That LGNSW lobby the State Government to legislate so as to prevent Land & Environment Court of NSW applications opposing development consents based on Aboriginal culture or heritage concerns, if the application is lodged after any public exhibition period and registered sites of significant Aboriginal culture or heritage do not already appear in the Aboriginal Heritage Information Management System (AHIMS) Database.</p>
Motion Background	<p>There is a tactic being used by some seeking to force extended delays to developments and maximise the financial impact on developers to file applications in the Land & Environment Court of NSW opposing development consents based on Aboriginal culture or heritage concerns after development consent is issued.</p> <p>This tactic is creating extreme uncertainty amongst developers, and forcing costs to increase significantly, so much so that affordable housing is almost a distant memory.</p> <p>There is no reason why significant Aboriginal culture and heritage concerns cannot be listed in the AHIMS database, so developers can check before they spend large amounts of money and know what to plan for. There is also no good reason why any concerns cannot be raised during public consultation periods, prior to significantly more money being committed.</p> <p>Of course, there will inevitably be situations where there are exceptional circumstances, which should be provided for in any legislation dealing with this issue.</p>
Hidden	Yes

Notices of Motion / Questions with Notice



Notice of Motion / Question with Notice

Subject **Mayoral Attendance Report**

TRIM Record No BP25/472:EF19/25-7

That Council receives the Mayoral Attendance Report for July 2025.

July

- 1 Media Event – LOLA Launch
- 6 LisAmore!
- 7 Broadwater Bridge reopening
- 8 Council meeting
- 9 NAIDOC celebrations
- Media Event: General Manager announcement
- Trident Fish & Grill First Anniversary
- 10 Meeting with NSW Reconstruction Authority
- Koala Advisory Group
- LGNSW visit
- 15 Councillor briefing
- 17 Media event – A League Football Match
- 18 Lismore Business Leaders Luncheon
- 23 Business After Hours
- 28 Regional Health Stakeholder Forum
- 29 NSW Golf Open Regional Qualifying tournament
- Media Event – SCU Athletics development
- Welcome Yamato Takada Exchange Students
- Lismore Skatepark “First Skate”
- Meeting with Premier’s Department
- Councillor briefing
- 30 Tour St Vincent’s Hospital
- NEMA & CSIRO briefing to Rous County Council
- NEMA & CSIRO briefing to Lismore City Council

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/472:EF19/25-7

Notices of Motion / Questions with Notice



LOLA launch



Broadwater Bridge opening



LGNSW visit



Newcastle Jets A League match launch

Notice of Motion / Question with Notice

Councillor Steve Krieg has given notice of intention to move:

That:

1. with funding for a new upgraded footpath through the Sports precinct, linking the CBD to Lismore Square approved, the Walk of Honour, already resolved by Council to progress, be incorporated in the design
2. a Committee of interested councillors, with the Mayor as chair, be established
3. a workshop be held to develop terms of reference and eligibility guidelines and be brought back to Council for adoption
4. expressions of interest from the community for potential honourees be called for following this process

Councillor Comment

Outcome Sought

To commence the process to make the Walk of Honour a reality, to appropriately recognise significant Lismore residents.

Cost of Implementing

Nil

Funding Source

Not applicable

Officer Consulted

Nil

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/540:EF19/25-7

Notice of Motion / Question with Notice

Councillor Harper Dalton-Earls has given notice of intention to move:

That Council:

1. writes to the NSW Minister for Housing, The Hon Rose Jackson MP, requesting an update on the current status, future plans, and timeline regarding the decommissioning or relocation of the temporary housing pods located in Lismore
2. requests the Minister to work collaboratively with Council and local service providers to explore options for retaining some or all of the pods within the Lismore Local Government Area, for purposes including:
 - a. Transitional housing for flood-affected residents,
 - b. Temporary accommodation for individuals and families experiencing homelessness
 - c. Crisis accommodation for survivors of domestic and family violence,
 - d. Or other identified community housing needs
3. seeks a meeting between the Minister, Council representatives, and relevant local stakeholders to discuss practical opportunities to repurpose the pods for continued community benefit
4. sends a copy of this correspondence to the Member for Lismore, The Hon Janelle Saffin MP, for her awareness and advocacy

Councillor Comment

Outcome Sought

Lismore continues to experience significant housing pressures following recent disasters, with sustained demand for affordable, transitional, and crisis accommodation. Retaining the pods offers a practical opportunity to address pressing housing needs and strengthen local recovery and resilience.

Cost of Implementing

Nil

Funding Source

Staff time

Officer Consulted

Nil

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/521:EF19/25-7

Notice of Motion / Question with Notice

Councillor Harper Dalton-Earls has given notice of intention to move:

That:

1. a report be prepared on the feasibility of a pilot log-based riverbank restoration program within the Lismore local government area, modelled on the program recently implemented by Tweed Shire Council along the Tweed River
2. the report is to:
 - a. identify potential sites along Wilsons River, Leycester Creek, or other flood-affected waterways within Lismore LGA where similar interventions may reduce erosion and sediment movement
 - b. summarise the observed benefits of the Tweed River project, including sediment capture and channel stabilisation
 - c. identify potential external funding sources, including but not limited to:
 - i. the NSW Government's Marine Estate Management Strategy
 - ii. relevant programs within Council's Flood Restoration Portfolio
 - iii. other applicable state or federal disaster recovery or environmental grant programs
3. findings of the report be presented to a future councillor workshop for consideration and discussion prior to any further actions being determined

Councillor Comment

Outcome Sought

Following the 2022 floods, Lismore LGA continues to experience significant riverbank erosion and sediment transfer within key waterways. A comparable restoration project by Tweed Shire Council placed over 1,700 hardwood logs into river channels, resulting in more than 3,800 tonnes of sediment capture and notable riverbank stabilisation benefits within a year. Investigating similar approaches in Lismore could offer practical and cost-effective outcomes, complementing existing flood recovery works.

Cost of Implementing

Staff time

Funding Source

The report will be prepared using existing operational resources with no additional direct cost to Council. The report aims to explore options to leverage external funding sources to support any possible future implementation.

Officer Consulted

Nil

Officer Comment

Acting Head of Planning and Environment

The identified action is not currently included in the integrated Community Strategic Plan, Delivery Program and Operational Plan and therefore it is not included in workforce planning.

If the proposed project is supported, resource will need to be allocated, or re-allocated, to enable officers to investigate and prepare a report that includes feasibility assessments and site investigation analysis.

Notice of Motion / Question with Notice

Although not log-based, Lismore City Council has a number of ongoing related or similar projects that will positively address waterway health, including:

- Urban River and Catchments Program - \$2 million project funded from the Commonwealth. Delivered over 2.5 years this project targets improved riparian functions on 42 hectares in the Lismore urban area.
- Northern Rivers Watershed Initiative - a catchment and estuary restoration program specifically devised for the Northern Rivers Joint Organisation (NRJO) footprint to address ecosystem health, water security and flood risk issues across the Northern Rivers. LCC received \$300,000 over 2 years (\$5M provided regionally from State funds) to achieve riparian restoration and catchment revegetation outcomes. To date, 22 hectares of riparian habitat is under restoration equalling approx. 6km of riparian length.
- Rural Landholder Initiative – annual delivery of approximately \$200,000 in small grants issued to private landholders for biodiversity improvement projects. A proportion of these are for riparian protection and enhancement.
- Weed management in priority urban riparian areas – management of Council-owned reserves along riverbanks.
- Nature-based Solutions: Building flood resilience in the Lismore Catchment – this NEMA funded project is delivered by Richmond Landcare Incorporated. Lismore City Council are supporting the project with in-kind advice, participation in the Project Control Group and a funding contribution for nature-based solution guidelines.
- Crown Lands Flood Recovery Program (complete in 2025) - included the remediation and stabilisation of Albert Park River Bank.

Officers are able to provide a workshop or briefing to councillors outlining the cumulative impact of the above projects prior to considering if an additional log-based restoration project is warranted and feasible.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/522:EF19/25-7

Notice of Motion / Question with Notice

Councillor Harper Dalton-Earls has given notice of intention to move:

That:

1. a new Climate Resilience Strategy be developed that incorporates and builds upon the existing work Council has undertaken in this area
2. requests the strategy:
 - a. identify and consolidate Council's current climate resilience initiatives, policies, and programs
 - b. quantify the scope and impact of this work to date
 - c. present a modernised, actionable framework to guide future decisions, planning, and investment in building climate resilience across the LGA
3. requests a draft of the strategy be brought back to Council within six months, including a timeline for community and stakeholder consultation as part of its development

Councillor Comment

Outcome Sought

This motion proposes the development of a new Climate Resilience Strategy that consolidates and quantifies the work Council is already doing in this area. The intent is not to revisit or reinstate any previous policy, but to produce a new, fit-for-purpose document that reflects current practice, fills the gap left by the absence of an existing strategy, and ensures consistency across Council's policy framework where references to a Climate Resilience Strategy remain.

Cost of Implementing

Nil

Funding Source

Staff time

Officer Consulted

Nil

Officer Comment

Acting Head Planning & Environment

Officers have already commenced the development of a Policy, which will be presented to Council before the end of the year.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/523:EF19/25-7

Notice of Motion / Question with Notice

Councillor Big Rob has given notice of intention to move:

That Council prepare a Developer Offsets Policy.

Councillor Comment

Outcome Sought

The outcome sought is to direct funds required to be expended by developers on environmental offsets towards council owned or managed Crown lands, where environmental volunteer groups are working to regenerate the sites at no cost to council.

This will assist developers to readily identify suitable offsets, it will fund volunteer groups with 'shovel ready' plans to regenerate a site, and it will decrease the impact on staff time and come at no cost to ratepayers, who receive the additional benefit of better maintained and improved sites.

If upper catchment riparian zones are targeted, this will also assist with some flood mitigation during low and possibly medium flood events, river health will see significant improvement, and it may also assist with propagation along river paths.

Cost of Implementing

TBC

Funding Source

N/A

Officer Consulted

Acting Chief Corporate & Community Officer

Officer Comment

Head of Planning and Environment

Any Developer Offsets Policy will need to align with the requirement to avoid, minimise and mitigate impacts in accordance with the *Biodiversity Conservation Act*. This means the scale of the need for offsets should be very low, and generally is.

Notwithstanding, staff are supportive in principle of creating a Developer Offsets Policy to assist in readily identifying sites and improving efficiencies and processes. Staff are happy to provide a preliminary briefing to Councillors, covering the key challenges, opportunities and technical points, prior to commencing the draft Policy – particularly on the elements relating to upper catchment sites and community group involvement.

The development of the Policy would require significant staff allocation and will impact staff resourcing and workloads. The resourcing would primarily impact the Environmental Strategies team, however input would be required across Public Open Space, Property Services, Governance and more.

The development of a Policy can be delivered inhouse, however will need to be scheduled around existing projects and timeframes.

Attachment/s

There are no attachments for this report.

Notice of Motion / Question with Notice

Councillor Big Rob has given notice of intention to move:

That Council commence targeted enforcement action to reduce the occurrence of unlawful footpath obstructions and signs intentionally placed on public land.

Councillor Comment

Outcome Sought

Lismore is looking like a mess. To allow those willing to break the law to do so while others who follow the law are at a disadvantage is inequitable and completely unfair.

If we have rules, we need them enforced. If we don't want to enforce or don't like them, we remove or change them so everyone is treated the same way. A hit and miss approach appears to show favouritism towards those who regularly break the law.

Cost of Implementing

TBA

Funding Source

TBA

Officer Consulted

Nil

Officer Comment

Manager Destination and Economy

Purpose of the Footpath Activation Trial (January – June 2025)

Lismore City Council initiated a Footpath Activation Trial to explore ways of using public footpath spaces to support local economic recovery, enhance the vibrancy of the city's streets, and improve the everyday experience of people moving through and engaging with Lismore's town centre. The trial ran from January to June 2025.

Specifically, the trial aimed to:

- Support business recovery and growth by allowing more flexible use of footpath areas for product displays and signage
- Enhance street ambience and activation, encouraging foot traffic and social connection through improved public space use
- Test the practicality and impacts of relaxed footpath trading conditions on accessibility, safety, and pedestrian flow
- Gather evidence to inform updates to Council's Footpath Trading and Community Fundraising Guidelines, ensuring they remain responsive, inclusive, and beneficial for both businesses and the broader community

Officers are now inviting feedback from local businesses and the community to evaluate the trial's impact and consider possible improvements to the current Footpath Trading and Community Fundraising Guidelines.

The survey is available on Council's website at <https://www.lismore.nsw.gov.au/Business/Business-support/How-we-can-help-your-business>, or you can access it directly via <https://forms.lismore.nsw.gov.au/forms/26537>. It is open until 31 August 2025.

Notice of Motion / Question with Notice

Information regarding the program was shared with the Disability Inclusion Advisory Group at its meeting on 13 August 2025.

Head of Shared Services

Enforcement activities have been challenging given the changes brought about by the Footpath Activation Trial. Following the conclusion of the trial and community feedback, an agreement on the approach to footpath trading and communication to businesses will mean the Rangers can resume enforcement practices that align with a singular approach across the CBD.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/543:EF19/25-7

Notice of Motion / Question with Notice

Councillor Big Rob has given notice of intention to move:

That Council withdraw policies 1.5.1, 5.2.1, 5.17.5, and 8.5.1.

Councillor Comment

Outcome Sought

Council has too many policies which are old and obsolete. They need to be withdrawn. If needed going forward, current policy documents can be created.

Cost of Implementing

Not applicable

Funding Source

Not applicable

Officer Consulted

Nil

Officer Comment

General Manager

Following circulation to officers, no objections have been received

Attachment/s

1. [1.5.1](#) 1.5.1 Annual rental applicable to non-profit organisations with buildings on council land
2. [5.2.1](#) 5.2.1 Administration of private covenants
3. [5.17.5](#) 5.17.5 Atmosphere Policy
4. [8.5.1](#) 8.5.1 Arts and Cultural Policy

TRIM Record No: BP25/545:EF19/25-7



POLICY MANUAL

Policy title:	ANNUAL RENTAL APPLICABLE TO NON-PROFIT ORGANISATIONS WITH BUILDINGS ON COUNCIL LAND POLICY
Policy number:	1.5.1
Objective:	To provide support for community organisations.
Link to community vision/service:	Quality of Life
Program Area:	Finance
Policy created: 15/3/88	Council reviewed: 6/8/96
Last reviewed by staff: 6/8/96	TRIM Ref: ED10/15780

That all non-profit community organisations be charged an annual rental equivalent to the total of charge for sewerage based on the number of water closets, the actual water usage, a licence fee and a garbage charge (if the service is used).



POLICY MANUAL

Policy title:	ADMINISTRATION OF PRIVATE COVENANTS POLICY
Policy number:	5.2.1
Objective:	To regulate Council's administration of private covenants.
Link to community vision/service:	Civic Leadership/Management
Program Area:	Development and Compliance
Policy created: 26/2/80	Council reviewed: 5/9/95, 14/7/98
Last reviewed by staff: 30/1/14	TRIM Ref: ED10/15899

Council will not accept nomination as administrator of private covenants.



POLICY MANUAL

Policy title:	ATMOSPHERE POLICY
Policy number:	5.17.5
Objective:	To manage greenhouse gas emissions, air quality and noise in the Lismore LGA
Link to community vision/service:	Water & Waste Cycle, Natural Environment
Program Area:	Environmental Health
Policy created:	Council reviewed:
Last reviewed by staff:	TRIM Ref: ED10/15916

This policy applies to all sections within Council having an impact on and/or regulatory role in managing 'the atmosphere', which includes noise, odour, greenhouse gas and air emissions (e.g. smoke, dust, pollutants). Air quality and noise emissions are an important community and environmental issue within the LGA. There is also increased community concern about the effects of greenhouse gases at a global level. The policy contains 3 objectives. These are:

1. To reduce Greenhouse Gas Emissions

Greenhouse gases are a global issue that are linked closely to climate change. It is widely accepted that increases in greenhouse gas emissions has led to an increase in average global temperatures, and will cause future rises in sea levels. These are likely to have major effects on existing natural habitats and ecosystems. Council's major involvement in reducing greenhouse gas emissions is through the Cities for Climate Protection program, which includes an extensive range of actions.

Strategies for implementation

- Implement actions within Council's local action plan from the Cities for Climate Protection program
- Create and improve access to public transport, walking and cycling facilities
- Liaise with Public Transport PAG to develop/initiate/implement promotions and policies to increase public transport, cycling and walking activities.

2. To limit the impact of noise and odour within the LGA

Noise and odour are a significant source of complaints to Council. Complaints usually occur between neighbours in the urban zone, but also regularly occur at the interface between land use zones such as agriculture or industrial areas and residential areas.

Strategies for implementation

- Provide up to date and accurate information on noise and odour issues for the Lismore community;
- Monitor number and nature of complaints to Council regarding noise and odour to identify major sources of emissions; and
- Ensure industries adopt best management practices for control of noise and odour
- Investigate better use of planning controls to reduce conflict between varying land uses and practices (Link to Land Policy);

e) Promote good neighbour behaviour and awareness of existing land uses

3. To manage and improve air quality within the LGA

As development continues within the LGA there is likely to be increased pressures placed on air quality. Council's role has traditionally been to record and respond to complaints about air quality. There are also industries in Lismore licenced with the Dept. of Environment & Conservation (DEC) for air emission discharges.

Strategies for implementation

- a) Monitor number and nature of complaints to Council regarding air quality to identify major sources of emissions.
- b) Provide up to date and accurate information on air quality issues, focussing on local industry;
- c) Ensure industrial and commercial premises are compliant with legislative requirements through audit programs and other means; and
- d) Encourage partnerships with industry and agriculture for adoption of best management practices for control of emissions.



POLICY MANUAL

Policy title:	ARTS AND CULTURAL POLICY
Policy number:	8.5.1
Objective:	To support and foster arts and culture in the Local Government Area
Link to community vision/service:	Develop and support art, cultural, sporting and tourism activities
Program Area:	Arts, Tourism and Leisure
Policy created: 14/06/11	Council reviewed: 16/5/11
Last reviewed by staff: 16/5/11	TRIM Ref: ED11/18651

Lismore City Council commits to celebrating and strengthening our community by:

- providing ongoing support for arts and cultural development within the Local Government Area
- maintaining and developing appropriate infrastructure for community, cultural and arts events.

Context

Arts and cultural activity in Lismore, Nimbin and our villages foster community cohesion, well-being and local identity through creative practice and participation. Arts and culture also represent a growing sector of our economy.

This Policy is closely linked with other Council policies including those pertaining to public art, sport, tourism and events, economic development and community engagement.

Policy

In its decision making, Council will commit to:

1. recognising and valuing the traditional arts and cultural heritage of the Bundjalung people;
2. recognising the value that arts and cultural activities contribute to community and its health and wellbeing;
3. encouraging the pursuit of excellence in arts and cultural activities within the LGA and the region;
4. advocacy, promotion and communication to raise the profile of existing and emerging arts and cultural organisations;
5. creating opportunities for coordination and partnerships between existing and emerging organisations;
6. an integrated approach to 'whole-of-Council' planning for arts and culture;

7. increasing opportunities for all sections of the community, including young people, people with disabilities, people from Culturally and Linguistically Diverse (CALD) backgrounds, low-income earners and transport disadvantaged to access and participate in arts and cultural activities;
8. encouraging expressions of identity that reflect local distinctiveness and diversity;
9. supporting the preservation of local cultural heritage;
10. enlivening public spaces by creating opportunities for everyday arts and cultural encounters;
11. capitalising on our arts and cultural identity in Lismore's marketing campaigns;
12. preserving and investing in the City of Lismore art collection;
13. supporting arts and cultural activities by the provision of resources that may include grants or in-kind assistance; and
14. ensuring that wherever possible that our unique identity and culture are reflected in our public places and built environment through best practice place making and planning.

Notice of Motion / Question with Notice

Councillor Jasmine Knight-Smith has put the following question with notice:

Can the General Manager explain Council weed spraying in the context of the attached pdf? And, is there a way for specific areas to be excluded from weed spraying in circumstances where they are interfering with the work of a conservation group, specifically volunteers with Landcare as outlined in the attached.

Attachment/s

1. Council Weed Spraying Wilson Nature Reserve - Council Spraying (Over 7 pages)

TRIM Record No: BP25/504:EF19/25-7

General Manager's response:

Employees from the Wastewater team who maintain the nearby treatment plant site confirmed they did spray the area - Council does require clear access to all treatment plant sites. The team had not sprayed in the area for a few months since Landcare put up signs in their regeneration zones. They will remain extra vigilant when spraying near this area, as well as around all bush regeneration sites.

Our team member spoke to the customer who raised this issue and updated him on the above. Head of Fleet and Open Spaces has since followed up with the customer and has provided contact details for any further concerns.

Notice of Motion / Question with Notice

Councillor Jasmine Knight-Smith has put the following question with notice:

Are there any plans for a footpath in First Ave between Avondale & Esmonde. Pedestrians have to use the narrow road going to nearby shops which has mud on either side.



Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/503:EF19/25-7

General Manager’s response:

First Avenue is included in Council’s Walking, Cycling and Micromobility Strategy, as per the below extract (action 42). Timing for this project is subject to funding. The Walking, Cycling and Micromobility Strategy is published on Council’s website.

Girards Hill and East Lismore

Walking and Cycleways

Key Attractors and Existing Environment

Girards Hill and East Lismore are densely populated residential areas south of Batina Road. It is home to Southern Cross University and St Vincent's Hospital as well as the Wyrallah Road shopping precinct. Parts of Girards Hill and East Lismore are characterised by steep slopes that make walking and cycling challenging.

The Wilson Walking Trail provides a recreational trail from Robinson Lookout to Albert Park and around the golf course. There is also a shared path / walking trail around Albert Park baseball fields and a shared path along the river from Riverside Park to John Street in Girards Hill.

Identified Missing Links

- Riverside Park to Albert Park baseball facilities along the river
- Links to Albert Park Public School
- Future Pedestrian Crossing on Batina Rd, subject to government funding.
- Upgrades to Wade Park pathways and linkages, including access and egress to the park

Action Plan - Girards Hill and East Lismore

No.	Location	Description	Length (m)	Status
40	Kearn St	Widen path to create a shared path from Batina Rd to Albert Park School, and Wilsons Walking Track.	130m	U
41	Parbes St	Extend path at the west end of Parbes St, with Disability compliant access to Barnard Park.	100m	U
42	First Ave	Extend footpath from bridge to Esmonde St	370 m	U
43	Wyrallah Rd / Dalley St intersection	Investigate boundary adjustment with property at 5 Dalley St to improve safety issues at blind corner	NA	U
44	Barnham St	Connect Barnham Street at the existing bus stop (western side) to Wyrallah Road.	230m	P
45	Amazeo Pl	New footpath linking Wilson Walking Trail to existing path.	30m	U
46	Nelson St	Widen footpath to create a Shared Pathway from Dalley St to Elizabeth St.	820m	U
47	Wade Park	Upgrade pathways within park and new paths to access the park.	NA	U

U = Urgent
The project has funding at the time the strategy was written.

P = Deferred
Further on-ground investigations, design work and securing of funding required.

Notice of Motion / Question with Notice

Councillor Jeri Hall has put the following question with notice:

Can the General Manager advise what implications will there be if Council pause the NSW EPA's FOGO Mandate (requiring all properties with a red waste bin to also have a green organics bin) until 2030 (when it is due)?

Why was this mandate introduced 5 years prior to the requirement?

What exemptions will be offered for rural land holders who do not require the service?

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/539:EF19/25-7

General Manager's response:

Collection zones were reviewed and changes adopted by Council in the [Revenue Policy](#) for this financial year.

The majority of new green bins have been rolled out, and all deliveries will be complete by Friday 8 August.

Why was this mandate introduced 5 years prior to the requirement?

Approximately 200 properties will now be given a green bin as part of recent changes to waste collection zones.

Supporting transition to the NSW EPA's FOGO mandate was not the only reason for the changes. Other reasons include:

- clearly defining the zone boundaries for the collections team to reduce inconsistencies and tidy up some areas with ad hoc/mixed services
- as part of last years' changes, there was feedback from residents requesting green bins in some rural areas, particularly where adjacent to Village areas (e.g. Tullera, Caniaba).
- enabling the Customer Service team to set up new services in the correct zone
- encouraging better resource recovery of kerbside Food Organics and Garden Organics (FOGO)
- capture future growth areas where sensible.

What exemptions will be offered for rural land holders who do not require the service?

The annual Domestic Waste Management Charge is levied under Section 496 of the *Local Government Act 1993*.

Council has an obligation to implement the Revenue Policy as adopted.

Notice of Motion / Question with Notice

Councillor Harper Dalton-Earls has put the following question with notice:

When will Dawson Street (past the Ballina Rd Roundabout) be resurfaced or have intermittent works to resolve the state of the street.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/514:EF19/25-7

General Manager's response:

Dawson Street (Ballina Road to James Street) is currently included in the four-year forward works plan and is scheduled for rehabilitation works in 2028/2029, subject to budget approval. In the interim, identified defects will be logged and processed through a standard triage workflow with a risk-based approach. Risks associated with the hazard will be assessed, rated and treated hierarchically in line with council's available resources.

If councillors wish this project to be brought forward, they will have to identify another project to be replaced. Officers can provide a project list if required.

Notice of Motion / Question with Notice

Councillor Big Rob has put the following question with notice:

Can the General Manager please update council as to the status of the Pine Street North Lismore situation, including whether the unlawful occupants have been removed, whether services costing all other ratepayers have ceased, and the status of the remaining structures if known?

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/544:EF19/25-7

General Manager's response:

The NSW Reconstruction Authority are responsible for managing properties which have been purchased through the Resilient Homes Program, including payment of current Council services used at those properties.

Notice of Motion / Question with Notice

Councillor Big Rob has put the following question with notice:

Can the General Manager please advise when Policy number 1.4.20 and the associated guideline will be reviewed?

Attachment/s

1. [1.4.20 Enforcement Policy](#)
2. [Compliance and Enforcement Guidelines](#)

TRIM Record No: BP25/546:EF19/25-7

General Manager's response:

Officers will review the attached Policy and guidelines before the end of the financial year and bring back to Council for a decision.



POLICY MANUAL

Policy title:	ENFORCEMENT POLICY
Policy number:	1.4.20
Objective:	Ensure that the exercise of its regulatory powers is carried out consistently and without bias; Transparency and consistency in compliance and enforcement activities
Link to community vision/service:	Best Practice Corporate Governance
Program Area:	Development & Compliance
Policy created: 09/12/2008	Council reviewed: 01/12/10, 31/07/13
Last reviewed by staff: 31/07/13	TRIM Ref: ED13/16082 &ED16/27067

1.0 STATEMENT OF INTENT

To accord with the principles of natural justice, costs attributed to the delivery of enforcement action by Council will be recovered on a proportional basis that has regard to the principles within this policy and actual resources committed.

This Policy aims to provide transparency and consistency in compliance and enforcement action in matters of public safety and amenity, companion animals, food safety, public health, environmental and development non-compliance and ensure natural justice principles are respected in the effective and efficient use of Council resources.

Lismore City Council's adopted values also apply to any compliance and enforcement action.

Council acknowledges that it has an obligation under s.8 of the *Local Government Act 1993* to ensure that the exercise of its regulatory powers is carried out consistently and without bias.

2.0 APPLICATION OF POLICY

Implementation of this Policy applies to all Development & Compliance Staff, to enforce local government, planning and environmental and other legislation in NSW for which Council is the appropriate regulatory authority, in accordance with Council's *Delegations Manual* and implementation of Delegated Authority documentation.

3.3 PRINCIPLES

In the course of exercising compliance and enforcement functions in relation to unlawful activity, Council staff acting under delegations of authority will observe the following principles:

<i>Consistency</i>	Ensuring that similar issues are dealt with in the same way and in a fair and impartial manner.
<i>Customer Service</i>	Working with the business or individual to achieve compliance with the law by being approachable, courteous and communicate effectively and efficiently.
<i>Transparency</i>	Ensuring that Council's intentions and actions are easily understood, coherent and demonstrate impartiality, balance and integrity.
<i>Accountability</i>	Council staff are willing to explain their decisions and make available avenues of complaint or appeal.
<i>Proportionality</i>	Compliance and enforcement responses are proportionate to the significance of the breach and responsiveness.
<i>Targeted</i>	Making sure that resources are focussed primarily on responding to community expectations and those whose unlawful activities give rise to the most serious risks.

4.0 ADMINISTRATION

Guidelines approved by the General Manager will be published on Council's website which detail:

1. How Council staff will undertake compliance and enforcement activities to ensure the above principles are observed;
2. Enforcement options dependent on the significance of the breach, the public interest, aggravating or mitigating factors, including actions to restrain or remedy a breach, and appropriate penalty actions to punish/deter offenders, and ensure the integrity of the regulatory system.



COMPLIANCE AND ENFORCEMENT GUIDELINES

www.lismore.nsw.gov.au

Oliver Avenue, Goonellabah NSW 2480 • PO Box 23A, Lismore NSW 2480 • T: 1300 87 83 87 • E: council@lismore.nsw.gov.au • ABN: 600809328

Lismore City Council acknowledges the people of the Bundjalung Nation, traditional custodians of the land on which we work.

Contents

1.0 Introduction	3
2.0 The Council's compliance role	3
3.0 Compliance obligations on proponents	5
4.0 Conditions of approval	5
5.0 Assessment and investigation of suspected breaches	5
5.1 Preliminary assessment	5
5.2 Investigation	6
5.3 Communication regarding alleged offences	6
6.0 Significance of a breach	7
6.1 Relevant factors	7
6.2 Classifying a breach – low, medium or high?	8
7.0 Enforcement	10
7.1 Enforcement options	10
7.2 Choosing the appropriate enforcement response	10
7.3 Consultation with other regulatory agencies	12
8.0 Responsibilities of Council officers	12
8.1 Recording potential breaches	12
8.2 Natural justice	12
8.3 Ethical conduct	12
8.4 Peer Reviews/Concurrence	12
9.0 Reporting	13
10.0 Appendix	14
Appendix 1 – Breach Management Guidelines	14
Appendix 2 – Penalty Notice Guidelines	22
Appendix 3 – Prosecution Guidelines	30
Appendix 4 – Communication Guidelines	37
Appendix 5 – Acknowledgements and Additional Resources	39

1.0 Introduction

Lismore City Council has an adopted Enforcement Policy which details principles for Council staff to observe when exercising compliance and enforcement functions in relation to unlawful activity.

It is important that this compliance function is carried out in a responsible manner and with integrity. The community, quite rightly, expects that unlawful activity is dealt with in the appropriate manner. This Guideline for breach management, prosecutions and penalty notices provide a solid platform for Council to undertake its compliance and enforcement work. They also will help with community and stakeholder understanding as to how Council goes about its work.

Council incurs costs in undertaking compliance and enforcement activities, and there is a need to consider the long term financial sustainability of providing these services to the community in a cost effective manner. It is therefore important that these costs incurred by Council are not solely funded from Council's general rate revenue provided by the community at large, and that consideration is given to recovery of costs incurred by Council from offenders. This can be achieved through appropriate penalties, compliance cost notices and cost orders that are determined with consideration to actual costs incurred by Council in following compliance matters through.

Unlawful activity is any activity or work that has been or is being carried out:

- a) contrary to the terms or conditions of a development consent, approval, permission or license;
- b) contrary to the Lismore Local Environmental Plan, as amended, that regulates the use, activities or work that can be carried out on particular land;
- c) contrary to a legislative provision regulating a particular responsibility, use, activity or work;
- d) without a development consent, approval, permission or license; and includes unauthorised works and uses; and
- e) contrary to the laws of New South Wales for which Council is the appropriate regulatory authority.

The purpose of the Policy is to outline how Council conducts its compliance monitoring and enforcement activities in a fair and equitable manner. The Policy is supported by these operational guidelines to assist Council officers in implementing the Policy. These guidelines are based upon enforcement policies/guidelines published by the NSW Department of Planning and Infrastructure, and their assistance in allowing permission for reproduction of their enforcement publications is greatly appreciated.

Council officers and contractors carrying out works must do so in accordance with the law. It is recognised Council has limited authority to take certain legislative enforcement action against its own employees or contractors. In such instances those issues may be best handled under contractual terms and performance agreements or by the appropriate regulatory authority. For example, it may be the case that the Environment Protection Authority will have a role as the appropriate regulatory authority (see for example EPA v Ballina Shire Council [2006] NSWLEC 289). It may also be appropriate to refer such matters to the Department of Local Government to ensure there is no allegation that Council has failed to act in an appropriate manner.

2.0 The Council's compliance role

A major role of the Council is to monitor and enforce compliance with various legislation, including (but not necessarily limited to) the provisions of:

Building Professionals Act 2005
Companion Animals Act 1998
Contaminated Land Management Act 1997
Environmental Planning & Assessment Act 1979
Food Act 2003
Heritage Act 1977
Impounding Act 1993
Liquor Act 2007
Local Government Act 1993
Plumbing and Drainage Act 2011

Protection of the Environment Operations Act 1997
Public Health Act 2010
Public Health (Tobacco) Act 2008
Restricted Premises Act 1943
Road Transport (General) Act 2005)
Road Transport (Safety and Traffic Management) Act 1999
Roads Act 1993
Smoke Free Environment Act 2007
Swimming Pools Act (Amended) 2012
Trees (Dispute between Neighbours) Act 2006
Water Industry Competition Act 2006
Water Management Act 2000
Work Health and Safety Act 2011

The key components of Council's compliance program are:

(a) Conditions of Approval

Council is responsible for ensuring conditions of approvals are relevant, reasonable, achievable, clearly articulated and enforceable. The level of compliance monitoring and reporting required of the proponent will generally be consistent with the significance of the project and level of potential harm if a breach occurs.

(b) Compliance Monitoring

Council conducts programmed compliance audits and inspections of certain premises to ascertain the level of compliance and environmental performance. Council's audits and inspections will generally target higher risk projects, or other projects where information available warrants such an approach. Audits and inspections may be conducted on individual premises or on groups of premises, for example in a specific area or of a specific activity type. The findings of the compliance monitoring activities will inform any follow-up investigation of potential breaches.

Compliance monitoring also includes reviewing proponents' environmental monitoring reporting and independent audits and records, together with any other information received from councils, other agencies or members of the public.

(c) Assessment and Investigation of potential breaches

Where a potential breach is identified, Council will conduct a preliminary assessment to determine whether the matter is one for which Council is responsible and warrants further investigation. A further investigation will obtain sufficient evidence to establish whether a breach has occurred and the facts surrounding the breach (including the identity of the responsible person(s)). Where a breach is established the investigation will also assist in choosing the nature of any enforcement response.

(d) Responding to Breaches (enforcement)

Council has a range of enforcement options to penalise offenders and/or to remedy or restrain a breach, including warning letters, statutory orders, penalty notices and the commencement of civil or criminal proceedings. Council will choose an enforcement response which reflects the seriousness of the particular breach and the subjective circumstances of the alleged offender (e.g. whether the offender deliberately committed the offence). The following guidelines outline the principles adopted by Council in delivering these components of the compliance program.

(e) Cost Recovery (Compliance Cost Notices)

Under specified legislation, Council has the power to recover the cost of enforcement actions required to enforce compliance with Council directions/orders under specified circumstances. Council will keep appropriate records and issue invoices to recover the cost of undertaking enforcement actions as a debt owed to Council in accordance with applicable legislative provisions, and in addition to, or separate from any remedial or penalty actions.

3.0 Compliance obligations on proponents

Proponents of approved activities, and other persons carrying out activities on approved projects, are required by law to comply with conditions of approval. Failure to do so is an offence. Where conditions of approval require specific actions, proponents are obliged to conduct such activities to relevant standards and acceptable industry practice.

4.0 Conditions of approval

Approvals granted by Council are usually subject to conditions requiring action(s) to be undertaken or setting limits on what may be done. For example, a condition may require a proponent to mitigate environmental effects or it may set maximum levels of production or truck movements. Conditions provide the parameters within which an activity or work must be carried out and any identified impacts effectively managed.

A proponent is required by law to comply with conditions of approval and failure to do so is an offence against the Act. To ensure that conditions are capable of being applied and enforced, conditions of approval will be:

- unambiguous;
- measurable, for example, conditions which are time specific; and
- reasonable, that is, they must relate to the approved development and be achievable.

Note: Practice notes may apply to the imposition of conditions to achieve these requirements.

5.0 Assessment and investigation of suspected breaches

5.1 Preliminary assessment

When Council has information of a suspected breach, it will assess the matter to determine an appropriate response. As part of that assessment, Council staff should consider:

- Whether it is a matter for which Council is responsible or whether it falls within the responsibility of another government authority (such as another State regulatory agency);
- Whether it warrants further investigation (for example, whether there is enough information to establish the facts, or any evidence to support a claim being made);
- Is the complaint premature eg does the complaint relate to some unfinished aspect of works that are still in progress?
- Is the activity or work permissible with or without an approval, and is there an approval in place that is being complied with?
- Is the complaint trivial, frivolous or vexatious?
- Has too much time elapsed since the events the subject of the complaint took place? (eg Statute of limitations may apply, or any prospect of successfully pursuing the matter may be extremely remote);
- Is the activity having a significant detrimental effect on the environment or does it constitute a risk to public safety?
- Does the complaint indicate the existence of a systemic problem, eg if a complaint is one of a series, could there be a pattern of conduct or a more widespread problem?
- Does the complaint have special significance in terms of the Council's existing priorities and Enforcement Policy?
- Are there significant resource implications in relation to an investigation and any subsequent enforcement action?
- How is the public interest affected?

Council staff will conduct an analysis of the available information, including Council records. This may be followed by a site visit and/or discussions with the person concerned on mutually agreed terms.

Complaints that seem to involve ill will, vengeance or vindictiveness should not be immediately dismissed. Although a complainant's motive may cloud their judgment and flavour the complaint, the complaint may still be well founded.

If the Council receives an anonymous complaint, or the complainant subsequently withdraws the complaint, the allegations should still be investigated if the subject matter of the complaint is sufficiently serious and there are other avenues of inquiry reasonably available. However, you need to remember that evidence will not be available from the complainant.

This preliminary assessment may provide sufficient information to establish whether or not a breach has occurred or is likely to have occurred that justifies a response from Council. It will also assist in prioritising the variety of compliance issues that require attention.

Based on that information, Council may choose to proceed with an enforcement response without further investigation, or it may determine no response is required, or it may determine that further investigation is necessary.

If the decision is made to take no further action, the reason for that decision must be clearly documented and peer reviewed where necessary.

5.2 Investigation

The purpose of an investigation is to obtain sufficient evidence to establish whether a breach has occurred and the facts surrounding the breach (including the identity of the responsible person(s)). NSW Legislation empowers authorised Council officers to enter and search premises and conduct associated investigative activities, obtain information and records by written notice, and require persons to answer questions in relation to matters being investigated.

Council's investigations are conducted in accordance with Council policy in a manner that is:

- objective, fair and impartial;
- consistent with the presumption that an alleged offender is innocent until proven otherwise;
- within the delegated authority of the investigating officers;
- in accordance with the law; and
- respectful of individuals.

The order of intervention wherever possible and dependent on the nature of the offence should be demonstrated as follows:

1. Encourage voluntary compliance/good practice;
2. Persuade to comply/improve practice;
3. Enforce to comply/impose penalty.

Evidence collected in an investigation may take various forms including inspection notes, photographs, videos, samples and physical evidence, witness statements and records of interview.

Evidence obtained from an investigation will assist Council staff in determining whether an enforcement response is warranted and, if so, the nature of that response.

5.3 Communication regarding alleged offences

There are a number ways in which complaints, investigations, compliance and enforcement activities can be initiated. One important thing in ensuring a receptive response to our compliance activities is to ensure all our communications are not received in a negative perception.

It is important to remember there are two aspects to enforcement activities, the first is achieving compliance, the second is determining whether a penalty is appropriate in the circumstances.

The primary goal is to achieve compliance, and the tone of your initial contact should always be based on the assumption people want to comply with Council requirements. Our statistics demonstrate 85% actually do respond positively to requests from Council compliance staff.

As a Council Officer, you may have cause to visit a site and discuss a compliance matter with a person who may have committed an offence either in person or by phone and first impressions often dictate how people will respond.

Attached to this guideline is a template letter detailing the format to be adopted for initial contact with people on compliance matters. Formal notices and the like that may be required should be attached to this initial enforcement covering letter.

The template is a tool that must be modified to suit the circumstances of the matter you are dealing with.

The following are some basic principles we should always follow to assist your supervisor in their response to complaints about the actions of compliance staff in dealing with matters:

1. Always begin compliance letters with reference to previous discussions or written communications by their date to ensure the context of your letter is clear and not misunderstood or misinterpreted by others.
2. Use plain English and avoid technical jargon or acronyms unless it is clear what you mean.
3. Make sure you provide details of what has occurred and why that is a problem.
4. Explain and/or determine what they need to do in order to resolve the situation, together with advice on action Council may intend to take (you can include fact sheets and notices etc. as attachments).
5. Provide options to people to ensure the action taken is their decision and avoid the accusation "I did what Council told me to do!". The options are better drafted as numerical, alphabetical or in dot points and also be in a form which is easy to read.
6. Always sign off compliance correspondence with offers to clarify queries or understanding of alternative options or what is required, including meeting with the person concerned if required to help them understand. Your willingness to facilitate an outcome can be a powerful tool when people do not intend to do the right thing, and then claim, "I didn't understand what the problem was!".

6.0 Significance of a breach

6.1 Relevant factors

Where a breach is identified, the significance of the breach will guide the appropriate enforcement response. The following factors are relevant to determining the significance of a breach:

- (a) the severity or seriousness of the breach, which includes;
 - the degree of harm or potential harm resulting from the breach, including:
 - whether it seriously endangers human health or safety, the environment, or the economic or social fabric of the community;
 - whether any environmental harm caused by the breach is temporary or long lasting;
 - the magnitude or degree of non-compliance – whether the non-compliance is trivial or substantial;
 - whether the offence occurred on public lands and has harmed the value of those lands to the community;
 - the level of any unjust benefit to the alleged offender arising from the breach and whether the breach was motivated by financial gain.

- (b) the public interest, including for example:
- the cost to the general community of the breach (eg whether the offence caused harm to public lands) and the cost of taking further action in response to the breach;
 - the need to deter the particular offender and the community from committing offences in the future (particularly if the offence is prevalent);
 - the likely public perception of the breach and the manner in which it is dealt;
 - whether pursuing the breach would be of little or no utility (for example, where a change in the law is imminent which would make the activity lawful).
- (c) aggravating or mitigating factors - this refers to the negative and positive circumstances surrounding the offender's commission of the offence, including for example:
- whether the alleged offender committed the breach deliberately or by mistake;
 - whether the alleged offender has shown a willingness to co-operate with Council and to comply in the future;
 - whether the alleged offender has a history of prior breaches and, if so, whether Council has taken action;
 - whether the breach is continuing (the alleged offender has not ceased or abated the offence);
 - whether the alleged offender is a State Owned Corporation and, as such, may have a statutory responsibility to ensure compliance, particularly environmental obligations under section 8 of the State Owned Corporations Act 1989; and
 - the length of time which has elapsed since the breach occurred.

The applicability of, and weight to be given to, each of the above factors will depend on the circumstances of each case. Investigating officers will make determinations on the level of significance with reference to internal policies, peer review, supervisor support and legal advice where appropriate. Council officers will operate only within their delegated authority.

6.2 Classifying a breach – low, medium or high?

After the above factors have been considered, suspected breaches will be classified as being of low, medium or high significance. This classification will, in turn, guide the appropriate action to be taken. In all cases professional judgment will need to be exercised when making the classification.

The following table provides **examples** in determining the significance of a breach in consideration of the factors listed in this policy.

Table 1: Examples in determining significance of breaches

Severity/seriousness	Public interest	Aggravating or mitigating factors	Significance of breach
Low to moderate environmental harm	Public interest low due to minimal cost to the community and the “one-off” nature of the breach with minimal need for deterrence against further breaches	No significant aggravating factors; Offender co-operated with investigation	LOW
Moderate, short-term loss of amenity; Low environmental harm	Public interest likely to be moderate due to the need to deter the offender from further breaches of this nature but little public perception of the breach	No significant aggravating factors; Offender rectified breach quickly when notified.	LOW
Moderate or high degree of environmental harm	Public interest high due to the breach impacting on the amenity of several residential neighbours and the need to deter against further breaches of this nature.	Significant aggravating circumstances due to offender knowingly committing the breach despite likely impacts	HIGH
Large magnitude of exceedance; High level of unjust benefit; Low to moderate risk of environmental harm	Public interest moderate due to the need to deter the offender against further breaches of this nature	Aggravating circumstances due to offender knowingly committing the breach for significant financial gain	HIGH
Low environmental harm	Public interest moderate due the need to deter the offender against further breaches of this nature	Significant aggravating circumstances due to offender submitting false and misleading information about the breach	MEDIUM
High environmental harm	Public interest low due to the low public perception of the breach and unlikelihood of the offender committing further breaches	Significant mitigating circumstances due to offender immediately rectifying the breach and instigating measures to prevent re-occurrence	MEDIUM

7.0 Enforcement

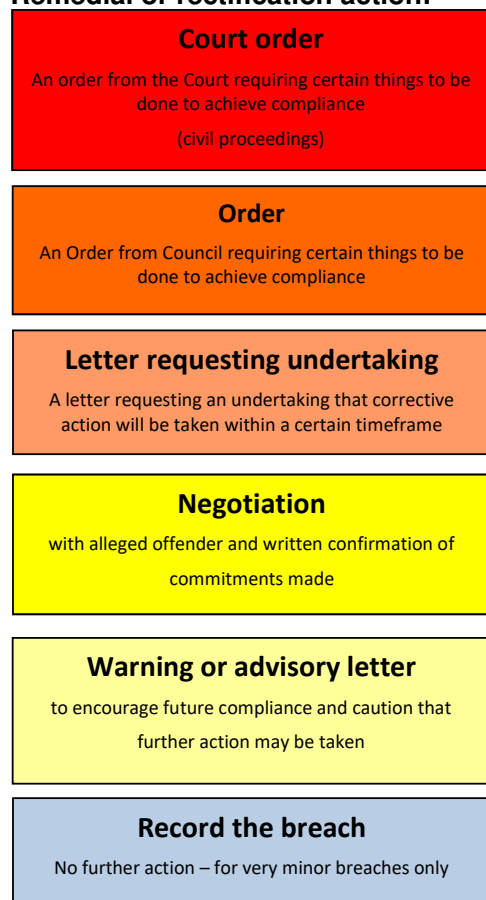
7.1 Enforcement options

When a breach has been identified, it is then necessary to determine the appropriate enforcement response for the particular breach. Enforcement options include actions to restrain or remedy a breach, and actions to punish an offender.

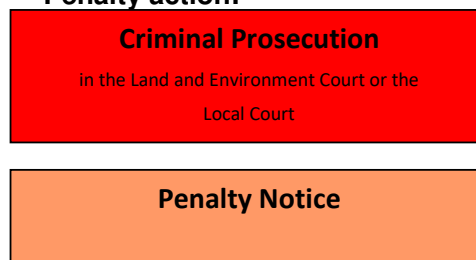
The range of enforcement options available to Council in **descending order of significance** is shown in **Figure 2**. Enforcement options are not necessarily mutually exclusive; for example in some circumstances it may be appropriate to contemporaneously issue an Order and a penalty notice.

Figure 2: Enforcement actions available to Council

Remedial or rectification action:



Penalty action:



7.2 Choosing the appropriate enforcement response

In all cases, Council staff will choose an enforcement response which is proportionate to the seriousness of the offence and which:

- sets a proper precedent for future cases;
- is consistent with the intent and objectives of the legislation;
- is an appropriate use of Council's resources;
- does not adopt an unreasonable or extreme interpretation of a condition of approval or consent; and
- is consistent with responses previously adopted for similar incidents.

Enforcement options which may be appropriate for breaches determined to be of low, medium or high significance are set out below. It is important to remember that the following is a guide only and each case must be assessed on the particular facts. A summary of the guide is provided in **Table 2**.

Enforcement options for breaches of **low significance**:

- take no action but record the breach (only where the degree of harm and severity of the breach are low to very low, some mitigating circumstances exist, there are no aggravating circumstances, and the public interest does not compel further action);
- send a warning or advisory letter to the alleged offender to encourage them to comply in the future;
- negotiate a corrective action with the alleged offender and confirm commitments made in writing;
- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe;
- issue a Penalty Notice;
- issue an Order or Direction under the applicable legislation, for example to cease specified activities, comply with a development consent or approval, and/or effect a remedy or restraint of the alleged breach.

Enforcement options for breaches of **medium significance**:

- send a warning or advisory letter to the alleged offender to encourage them to comply in the future;
- negotiate a corrective action with the alleged offender and confirm commitments made in writing;
- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe;
- issue an Order or Direction under the applicable legislation, for example to cease specified activities, comply with a development consent or project approval, and/or effect a remedy or restraint of the alleged breach;
- issue a Penalty Notice.

Enforcement options for breaches of **high significance**:

- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe;
- issue an Order or Direction under the applicable legislation;
- commence civil proceedings in the Land and Environment Court or other jurisdiction seeking Court Orders requiring certain things to be done to achieve compliance or to remedy or restrain an alleged breach;
- issue a Penalty Notice;
- commence criminal prosecution proceedings in the Land and Environment Court or in a Local Court.

Note that it may be appropriate to use more than one enforcement option in some cases. If initial enforcement action does not achieve a satisfactory outcome, it may be necessary to proceed to a higher level of enforcement response. For example, if a warning letter does not achieve the desired response, it may be appropriate to give an Order or to seek an Order from the Court; or if an Order is not complied with it may be appropriate to bring enforcement or prosecution proceedings.

Table 2: Enforcement Options Summary

Enforcement Action	Significance of Breach		
	High	Medium	Low
Prosecution	*		
Court Order	*		
Penalty Notice	*	*	
Order	*	*	*
Letter requesting undertaking	*	*	*
Negotiated outcome		*	*
Warning letter/caution		*	*
Record breach			*

Irrelevant considerations in choosing an enforcement response:

The decision as to the appropriate action will not be influenced by:

- the race, religion, sex, national origin or political associations, activities or beliefs of the alleged offender or any other person involved;
- the personal feelings of the investigating officers concerning the offence or the alleged offender;
- the possible political advantage or disadvantage to the government, Council or any political party, group or individual;
- the possible effect of the decision on the personal or professional circumstances of those responsible for the investigation or otherwise involved in its conduct; or
- possible media or community reaction to the decision.

7.3 Consultation with other regulatory agencies

Regulatory action taken by another authority does not preclude Council from taking compliance action in response to a breach of the planning legislation. However, where an offence is identified which another regulatory agency or local council may also be addressing, Council will consult with the responsible authority to facilitate a coordinated and constructive compliance approach.

8.0 Responsibilities of Council officers

8.1 Recording potential breaches

Any potential breach that comes to the attention of Council is recorded and assessed to determine whether an investigation is warranted. Recording potential breaches allows all decisions about the matter to be tracked and reported on. It also enables repeat offenders to be identified. The decision whether or not to conduct an investigation is recorded together with the reasons for making that decision.

8.2 Natural justice

Natural justice, also known as procedural fairness, is a fundamental principle for discharging regulatory duties. Council officers will carry out their investigative and enforcement functions having regard to the principles of natural justice which include:

- Providing a fair hearing – allowing a person whose interests may be adversely affected by a decision to present their case, and considering any representations that have been made by a person likely to be affected in response to the prospect of enforcement action;
- Impartiality in the decision making process – officers are to be unbiased and not hold a vested interest in the outcome of a process;
- Decisions based on evidence – decisions must be based on the evidence provided, not on irrelevant issues, and there must be a rational basis upon which the decision maker has decided to accept the evidence as credible;
- Acting in good faith – at all times Council officers are to act in good faith.

8.3 Ethical conduct

Council officers are required to comply with Council's Code of Conduct. Discretionary powers of Council officers will be exercised in accordance with Council policies and procedures and to the highest ethical and professional standards. Any approach to bribe, influence or engage an officer in corrupt or unlawful behaviour will be reported immediately to the appropriate authority.

8.4 Peer Reviews/Concurrence

Council officers are expected to facilitate peer reviews of their activities in consultation with their supervisor. In particular:

1. Any issues with proposed penalties intended to be imposed with a face value that totals more than \$2,000 shall be referred to Manager – Development & Compliance for peer review in an agreed summary format that contains:

- A brief description of the issue;
- Dot points of the actions taken by Council and any actions by the alleged offender;
- A brief description of the offence(s);
- Photos;
- A brief statement confirming consideration of relevant provisions of Council's Enforcement Policy and Guideline, and the outcome of those considerations and any alternative options;
- A clear recommendation of any further proposed action in relation to achieving compliance;
- The appropriate penalty to be applied in the circumstances.

In order to ensure appropriate oversight of enforcement activities, the Manager – Development and Compliance will:

- Inform Excom/General Manager prior to initiating any legal proceedings against offenders and detail proposed course of action
- Details of targeted enforcement programs that commit an ongoing resource (eg CBD safety, footpath signage etc) will be forwarded to Excom for information.
- Provide regular reports in City Notes on any significant compliance/enforcement activity (eg fines >\$2,000, investigations, actions in response to Councillor requests)
- The status of current legal matters on Planning/Development/Compliance will be reported in City Notes on a regular basis.
- Regular reports will be provided to Excom/City Notes on compliance matters.

The purpose of the above actions is to inform senior management (and if appropriate Councillors), in the enforcement decision making process, change perceptions by communicating issues proactively and enable Councillors and senior management to be aware of the associated complexities and better able to respond to complaints and enquiries with confidence.

It is envisaged that this approach will significantly reduce a number of enquiries received and the resulting lost time explaining why certain enforcement actions were taken by Council officers.

9.0 Reporting

The Council's corporate reporting will include regular reports on compliance monitoring and enforcement actions undertaken.

10.0 Appendix

Appendix 1 – Breach Management Guidelines

1. Overview

Council officers have delegated authority to act, and are responsible for **identifying** potential breaches from the information they receive in their work. Where the preliminary analysis concludes that an investigation is warranted, the Council officer will arrange for an **investigation** of the alleged breach. The investigation involves the collection of evidence to determine whether a breach has occurred and the circumstances of the breach.

If there is sufficient evidence of a breach, the Council Officer will determine the **significance** of the breach and choose an appropriate **enforcement** response in consultation with the relevant supervisor, as necessary. In all cases, the Council's response to a potential breach and the reasoning for that response must be properly **recorded**.

The following chapters provide guidance on implementing the steps.

2. Identifying potential breaches

In these guidelines 'potential breach' refers to any report, complaint or other information received by Council indicating that a breach of a legal requirement may have occurred.

Council Officers may become aware of potential breaches from a number of sources including:

- findings from an audit or inspection;
- self-reporting by a proponent or consultant;
- complaints by members of the public;
- information received from a State agency or other authority.

All potential breaches must be promptly recorded by the staff member receiving the information, for allocation to a Council Officer appropriate to the seriousness or sensitivity of the matter.

3. Investigating potential breaches

3.1 Preliminary analysis

Every potential breach that comes to the attention of Council must undergo a preliminary analysis by an appropriately authorised Council officer to determine:

- a) whether the matter is within the responsibility of the Council or whether it should more appropriately be dealt with by another authority (such as a State regulatory agency); and
- b) whether the nature or seriousness of the potential breach warrants further investigation.

This analysis will typically involve a review of Council records (applications, approvals, previous incidents, maps/plans, reports) and discussions with relevant Council staff familiar with the matter. This may be followed by a site visit and/or discussions with the alleged offender.

The results of the preliminary analysis are to be recorded in Council's Customer Request Module (CRM) or Electronic Records Management (TRIM) systems.

If the preliminary analysis finds that the matter is insignificant and able to be resolved easily, appropriate action is taken to resolve the matter and the results recorded in Council's CRM or TRIM system.

For potential breaches which may be more complex or serious and may need to be addressed through enforcement action, an investigation is warranted, and a Compliance Register is to be set up in TRIM for the matter.

Example: further investigation not required

A Council inspection finds that a development project, which had commenced a week earlier, has neglected to display a sign identifying the PCA for the project, in breach of an approval condition. Upon being alerted to the matter by the Council, the proponent erects the sign within a few days. Given that the matter is not significant and was rectified quickly, further investigation is not warranted. The matter is recorded in the records system and an email forwarded to the proponent acknowledging rectification of the matter.

Example: proceed to further investigation

Upon receipt of representations from a neighbour, Council finds evidence that construction of a subdivision has proceeded in the absence of effective erosion and sediment controls, resulting in sediment pollution of a local creek. Council finds that an erosion and sediment control plan has not been submitted as required by the approval and gives an Order to the proponent to suspend development activity until sediment and erosion controls are in place and to submit the required plan. The matter is considered by the investigating officer to be potentially serious and a detailed investigation is conducted.

3.2 Investigation

The purpose of an investigation is to obtain sufficient evidence to establish whether a breach has occurred and the facts surrounding the breach (including the identity of those responsible).

The order of action, wherever possible and dependent on the nature of the offence, should be demonstrated as follows:

1. Encourage voluntary compliance/good practice;
2. Persuade to comply/improve practice;
3. Enforce to comply/impose penalty.

It is essential that reasonable attempts are made to contact persons affected by complaints so that they can ask questions, explore options, and understand issues and consequences in a free exchange of information. This is an important fundamental to incorporate into any investigation which should be able to be demonstrated if requested. If a site visit/meeting is not possible to discuss the matter with someone prior to sending a letter or notice, make sure that the letter invites the opportunity for meetings or discussions to occur. Personal cameras are one way that these interactions are demonstrated.

If the investigation establishes a breach, the evidence will assist in determining whether enforcement action is warranted and, if so, what enforcement action should be taken.

Various legislation empowers authorised Council officers to enter and search premises and to conduct investigative activities, obtain information and records by written notice, and require persons to answer questions.

Evidence collected in an investigation may take various forms including inspection notes, photographs, videos, samples and physical evidence, witness statements and records of interview.

It is recommended that officers undertaking investigations have specialised investigation training (for example Certificate IV in Government (Investigations)) and on-the-job training in the principles and techniques used for gathering information which would be admissible as evidence in a court.

At the completion of an investigation, documentation is prepared which clearly and accurately describes the collected evidence. The documentation will make a recommendation on whether or not there has been a breach and if so the report will be used to determine what enforcement action (if any) should be taken.

4. Enforcement

When the evidence has been collected and reviewed, and a breach is identified, the significance of the breach must be determined. The significance of the breach will, in turn, determine the appropriate enforcement response for that breach.

4.1 Relevant factors in determining the significance of a breach

Where a breach is identified, the significance of the breach will guide the appropriate enforcement response. The following factors are relevant to determining the significance of a breach:

- (a) the **severity** or **seriousness** of the breach, which includes:
 - the degree of harm or potential harm resulting from the breach, including whether it seriously endangers human health, the environment or cultural heritage;
 - whether any harm caused by the breach is long lasting;
 - the magnitude or degree of non-compliance – whether the noncompliance is trivial or substantial, for example, where a quarry operator significantly exceeds the maximum production limit imposed by a condition;
 - whether the breach occurred on public lands and has harmed the value of those lands to the community;
 - the level of any unjust benefit to the alleged offender arising from the breach and whether the breach was motivated by financial gain.
- (b) the **public interest**, including for example:
 - the cost to the general community of the breach (eg whether the breach caused harm to public lands) and the cost of taking further action in response to the breach;
 - the need to deter the particular offender and the community from committing similar breaches in the future (particularly if the breach is prevalent);
 - the level of public concern about the breach;
 - whether pursuing the breach would be of little or no utility (for example, where a change in the law is imminent which would make the activity lawful).
- (c) the impact of the breach and the responses to it on the **integrity of the regulatory instrument or system**, such as:
 - the precedent which may be set by the response to the breach;
 - the nature of the breach in the context of the intent of the legislation;
 - avoiding an unreasonable or extreme interpretation of a condition of approval or consent;
 - consistency with responses adopted for similar incidents.
- (d) **aggravating or mitigating factors** - this refers to the negative and positive circumstances surrounding the offender's commission of the breach, including for example:
 - whether the alleged offender committed the breach deliberately or by mistake;
 - whether the alleged offender is a State Owned Corporation and, as such, may have a special responsibility to ensure compliance with statutory duties, particularly environmental obligations as a result of section 8 of the State Owned Corporations Act 1989;
 - whether the alleged offender has shown a willingness to co-operate with Council and to comply in the future;
 - whether the alleged offender has a history of prior breaches and, if so, whether Council has taken action;
 - whether the breach is continuing (the alleged offender has not ceased or abated the breach);
 - the length of time which has elapsed since the breach occurred.

The applicability of, and weight to be given to, each of the above factors will depend on the circumstances of each case. Investigating officers will make determinations on the level of significance with reference to internal policies, peer review, supervisor support and legal advice, where appropriate. Council Officers will operate only within their delegated authority.

4.2 Classifying a breach – low, medium or high?

After the above factors have been considered, suspected breaches will be classified as being of low, medium or high significance. This classification will, in turn, guide the appropriate action to be taken.

Figure 2 presents a “decision guide” on determining the significance of a breach. However, professional judgment will need to be exercised when assigning values to the criteria and in making the final classification. The “decision guide” can only be a guide. Determining the significance of a breach is the exercise of discretion, and reasonable minds can often differ as to the significance of a breach. Where there are differences of opinion, they should be documented and justified/explained to ensure transparency.

Figure 2: Decision guide for determining significance of a breach

[illegible]

Step 2: Determination of Significance of Breach

Severity (from above):	HIGH														
Public Interest	H	H	H	H	H	H	M	M	M	M	L	L	L	L	L
Aggravating/Mitigating factors*	A	A	N	N	M	M	A	A	N	M	A	N	N	M	M
Integrity of regulatory system**	Y	N	Y	N	N	Y	N	Y	N	Y	N	Y	N	Y	N
SIGNIFICANCE OF BREACH	H	H	H	H	H	M	H	M	H	M	H	M	M	H	M

Severity (from above):	MEDIUM												
Public Interest	H	H	H	H	H	M	M	M	M	M	M	L	L
Aggravating/Mitigating factors*	A	A	N	M	M	A	A	N	N	M	A	N	M
Integrity of regulatory system**	Y	N	Y	N	Y	N	Y	N	N	Y	N	Y	N
SIGNIFICANCE OF BREACH	H	M	M	L	M	L	M	L	M	M	L	M	L

[illegible]

* Aggravating/mitigating factors:

***** Integrity of regulatory system:**

A = predominantly aggravating factors; M = predominantly mitigating factors; N = neutral
Y = the integrity of the regulatory system is unlikely to be compromised if action proceeds
N = the integrity of the regulatory system may be compromised if action proceeds

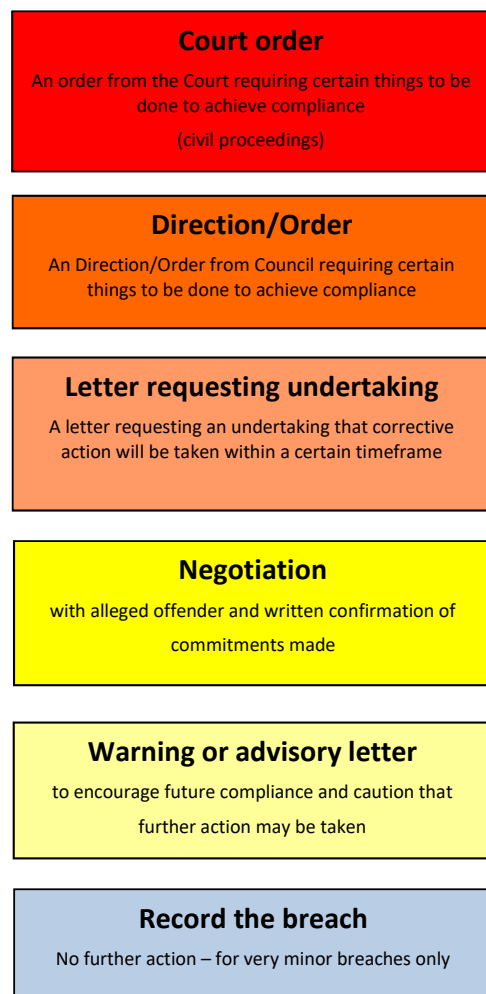
4.3 Enforcement options

When a breach has been identified, it is then necessary to determine the appropriate enforcement response. Enforcement options include actions to restrain or remedy the breach, and actions to punish an offender.

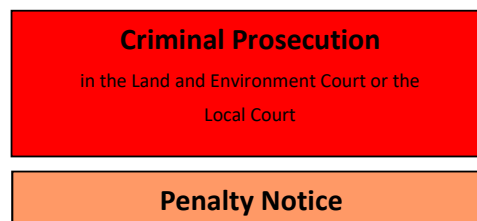
The range of enforcement options available to Council in **descending order of significance** is shown in **Figure 2**. Enforcement options are not necessarily mutually exclusive; for example, in some circumstances it may be appropriate to simultaneously issue an Order and a penalty notice.

Figure 2: Enforcement actions available to Council

Remedial or rectification action:



Penalty action:



4.4 Choosing the appropriate enforcement response

In all cases, Council should choose an enforcement response which is proportionate to the seriousness of the offence and which:

- has considered any representations that have been made by a person likely to be affected in response to the prospect of enforcement action;
- sets a proper precedent for future cases;
- is consistent with the intent and objectives of the legislation;
- is an appropriate use of the Council's resources;
- does not adopt an unreasonable or extreme interpretation of a condition of approval of consent; and
- is consistent with responses previously adopted for similar breaches.

Enforcement options which may be appropriate for breaches determined to be of low, medium or high significance are set out below. It is important to remember that the following is a guide only and each case must be assessed on the particular facts. A summary of the guide is provided in **Table 2**.

Enforcement options for breaches of **low significance**:

- take no action but record the breach (only where the degree of harm and severity of the breach are low to very low, some mitigating circumstances exist, there are no aggravating circumstances, and the public interest does not require further action);
- send a warning or advisory letter to the alleged offender to encourage them to comply in the future;
- negotiate a corrective action with the alleged offender and confirm commitments made in writing;
- issue a Penalty Notice;
- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe; or
- issue a Notice, Order or Direction under an Act, for example to cease specified activities, take specific action, comply with a development consent or approval, and/or effect a remedy or restraint of the breach.

Enforcement options for breaches of **medium significance**:

- send an advisory warning letter to the alleged offender to encourage them to comply in the future;
- negotiate a corrective action with the alleged offender and confirm commitments made in writing;
- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe;
- issue a Notice, Order or Direction under an Act, for example to cease specified activities, take specific action, comply with a development consent or approval, and/or effect a remedy or restraint of the breach;
- issue a Penalty Notice.

Enforcement options for breaches of **high significance**:

- send a letter identifying the breach and requesting an undertaking that corrective action will be taken within a specific timeframe;
- issue an Order or Direction under an Act, for example to cease specified activities, take specific action, comply with a development consent or approval, and/or effect a remedy or restraint of the breach;
- commence civil proceedings in the Land and Environment Court seeking Court Orders requiring certain things to be done to achieve compliance or to remedy or restrain an alleged breach;
- issue a Penalty Notice;
- commence criminal prosecution proceedings in the Land and Environment Court or in a Local Court.

Note that it may be appropriate to use more than one enforcement option in some cases. If initial enforcement action does not achieve a satisfactory outcome, it may be necessary to proceed to a higher level of enforcement response. For example, if a warning letter or notice of intention does not achieve the desired response, it may be appropriate to give an Order; or if an Order is not complied with it may be appropriate to bring enforcement or prosecution proceedings.

Table 2: Enforcement Options Summary

Enforcement Action	Significance of Breach		
	High	Medium	Low
Prosecution	*		
Court Order	*		
Penalty Notice	*	*	*
Order	*	*	*
Letter requesting undertaking	*	*	*
Negotiated outcome		*	*
Warning letter/caution		*	*
Record breach			*

If an officer is considering issuing a penalty notice, it must be remembered that payment of a penalty notice fine precludes the opportunity to bring any further proceedings against any person for the alleged offence. However if a penalty notice is withdrawn before payment of the fine, then further proceedings against any person for the alleged offence may be brought. Officers will refer to further information on issuing penalty notices in **Appendix 2 - Penalty Notice Guidelines**.

In deciding whether or not to prosecute, reference will be made to guidelines contained in **Appendix 3 - Prosecution Guidelines**.

Irrelevant considerations in choosing an enforcement response:

The decision as to the appropriate action must not be influenced by:

- the race, religion, sex, national origin or political associations, activities or beliefs of the alleged offender or any other person involved;
- the personal feelings of the investigating officers concerning the breach or the alleged offender;
- the possible political advantage or disadvantage to the government or any political party, group or individual;
- the possible effect of the decision on the personal or professional circumstances of those responsible for the investigation or otherwise involved in its conduct; or
- possible media or community reaction to the decision.

4.5 Consultation with other regulatory agencies

Regulatory action taken by another authority does not preclude Council from taking compliance action in response to a breach of legislation. However, where an offence is identified which another regulatory agency may also be addressing, Council will consult with the responsible authority to facilitate a coordinated and effective compliance approach.

Appendix 2 – Penalty Notice Guidelines

1. Introduction

Penalty notices are one of a range of options available to Council to deal with offences under various legislation. Enforcement action taken by Council in response to offences will serve either two purposes:

- 1) to **remedy** a breach or **restrain** a threatened breach, by:
 - a. an order or a notice issued by Council requiring action to be taken, or not be taken;
 - b. by commencing civil enforcement proceedings in the Land and Environment Court seeking orders to remedy or restrain a breach.
- 2) to **punish** an offender and **deter** the offender and general community from committing like offences in the future, by:
 - a. issuing a penalty notice requiring payment of a fine; or
 - b. criminal prosecution which results in imposition of a fine or imprisonment.

The choice of enforcement will depend upon the particular circumstances surrounding an offence, particularly the seriousness of the offence and whether a remedial or punitive outcome is sought.

Authorised officers should choose enforcement options which are proportionate to the alleged offence and which are most likely to deter future offences. In some cases a combination of options may be considered necessary to enforce an approval and provide an effective deterrent against further breaches (for example a penalty notice and an Order issued).

These guidelines describe the circumstances in which it is appropriate for authorised officers to issue penalty notices and sets out the procedures to be followed. These guidelines should be read in conjunction with the Breach Management Guidelines and Prosecution Guidelines.

2. Purpose of these Guidelines

These guidelines have been developed for Council when issuing penalty notices for offences under various legislation. The purpose of these guidelines is to:

- provide information on the penalty notice system and the Council's use of penalty notices;
- identify offences which may be dealt with by penalty notices;
- outline the procedures for issuing penalty notices; and
- define roles and responsibilities of Council Officers involved in the process.

3. What is a penalty notice?

A penalty notice is a notice served on a person who appears to have committed a prescribed offence under the Act or the Regulation. The person may elect to pay the specified fine for the offence or elect to defend the matter in court. The notice is similar in form to a parking ticket. A penalty notice may also be referred to as an infringement notice, a penalty infringement notice or a "PIN". Generally speaking, penalty notices are issued for one-off, relatively less serious offences.

3.1 Penalty notice offences

Legislation prescribes the offences for which penalty notices may be issued and the fines payable. Authorised officers must be familiar with the prescribed offences and ensure they rely on the most up-to-date version of the applicable legislation, which is available online at www.legislation.nsw.gov.au

3.2 Who can issue a Penalty Notice?

Penalty notices may only be issued by officers authorised by the General Manager of Council to serve penalty notices. Authorisation to issue a penalty notice is given to a named officer and not by reference to a specific position. A list of officers authorised to issue penalty notices may be found on the Council's website.

Penalty notices may also be issued by police officers.

4. The penalty notice system

The penalty notice system operates under what is known as the Self Enforcing Infringement Notice Scheme (**SEINS**), which is an automated processing system operated by the State Debt Recovery Office (**SDRO**). The SDRO is the fines division of the Office of State Revenue and is responsible for the collection, processing and enforcement of fines in NSW.

4.1 What happens after a penalty notice is issued?

The recipient of a penalty notice can either:

- a) Pay the infringement notice penalty amount within the prescribed period (21 days from date of issue).
- b) Transfer responsibility for the offence by making a statutory declaration nominating the person actually responsible for the offence. For example, a developer who receives a penalty notice may wish to nominate a subcontractor responsible for the breach.
- c) Request a review of the matter by the SDRO. The payment date of the offence will be extended. In most circumstances, the request will be referred to the Council staff for consideration and advice to SDRO.
- d) Elect to have the matter heard before a Court.

Once a penalty notice is issued, the matter is dealt with by the SDRO and the Council has no further role except in the following circumstances:

- to consider any representation made by the alleged offender;
- withdraw the penalty notice if Council decides to do so; and
- to attend the Local Court if the alleged offender elects to defend the matter in Court.

The SDRO gives the alleged offender 21 days within which to exercise one of the four options listed above. If the notice is still outstanding after 21 days the SDRO forwards a reminder notice to the person named in the original notice. The reminder notice allows a further 28 days to exercise one of the above options.

Penalty notices which are not finalised within the prescribed time period will be subject to further enforcement action by the SDRO and a further penalty amount is imposed.

Further information on the infringement system can be found online at www.sdro.nsw.gov.au.

4.2 Relationship between penalty notices and court proceedings

The issuing of a penalty notice does not in itself institute Court proceedings. The matter will only proceed to Court if the alleged offender elects to defend the matter rather than pay the fine. If a person elects to have the matter determined by a court, proceedings are brought in the criminal jurisdiction of the Local Court.

If the Court finds the person guilty, the amount on the penalty notice is not necessarily the amount that the Court will order to be paid. The Court may impose a considerably higher penalty than the penalty notice amount. In the case of the Local Court, a maximum of \$110,000 may be imposed. Payment of a fine is not considered as an admission of guilt nor does it lead to the recording of a criminal conviction.

If the fine is paid, no criminal proceedings can be taken against any person for the alleged offence. However, civil enforcement proceedings may still be taken in respect of the same breach to restrain or remedy the breach.

4.3 Relationship between penalty notices and other compliance options

The issuing of a penalty notice does not preclude the use of other compliance options (except criminal proceedings as noted above). While penalty notices are generally appropriate for breaches that can be remedied easily, the notice itself does not require the offender to remedy the breach. If the penalty does not induce the offender to remedy the breach, Council may need to take additional enforcement action to effect an appropriate remedy, for example, through the use of directions or orders issued under an Act or civil proceedings.

5. Deciding whether to issue a penalty notice

5.1 Does it appear that an offence has been committed?

A penalty notice may be issued if it appears to an officer authorised to issue penalty notices that a penalty notice offence has been committed. It is important to remember that there must be sufficient evidence to prove all the elements of the offence, particularly if a person elects to have the alleged offence dealt with by a Court.

As a minimum, before issuing a penalty notice, the authorised officer must know:

- what particular offence was committed;
- who committed the offence;
- the person's address (if it is a company, its registered office);
- where the offence took place; and
- when the offence took place.

5.2 Is a penalty notice the appropriate response for the offence?

An officer may be satisfied that, as a matter of fact, there is sufficient information to establish that a penalty notice offence has been committed. However, the decision to issue a penalty notice is discretionary and an authorised officer can determine whether a penalty notice is an appropriate response to a particular offence. Officers will refer to Council's Breach Management Guidelines for further information on choosing an appropriate enforcement response.

The circumstances of each offence, especially the seriousness, will determine whether it warrants a penalty notice or whether a stronger or more lenient response is appropriate.

a) Generally, penalty notices **are** an appropriate response for offences where the breach is:

- relatively minor;
- an isolated or one-off incident;
- capable of being remedied quickly and easily;
- supported by sufficient evidence;

and a fine is likely to be an effective deterrent.

b) A more lenient response, such as a warning letter or negotiation, may be appropriate for less serious offences.

c) Penalty notices are **not** appropriate for more serious offences, that is, where a breach is:

- causing or is likely to cause environmental harm;
- ongoing and not within the alleged offender's capacity to remedy quickly;
- a continuing non-compliance of repeated directions, orders or notices; and/or
- warrants a higher penalty than the fine prescribed for a penalty notice.

Such cases may warrant criminal prosecution proceedings or civil enforcement proceedings. Officers will refer to the Council's Prosecution Guidelines for more information on enforcement options for serious offences.

If there is any doubt about the seriousness of the offence and appropriate enforcement options, consultation with Legal Advisors is recommended before proceeding.

d) Penalty notices are also **not** appropriate in other circumstances, for example where:

- further inquiries are needed to ascertain the nature of the problem and develop an effective long-term solution;
- an unreasonably long period has elapsed since the alleged offence (note that, in any event, generally the statutory limitation within which to take action for an alleged offence is 2 years from when evidence of the alleged offence became known to an authorised officer);
- the evidence is insufficient such that if a Court heard the matter, it would be unlikely to succeed.

5.3 Multiple breaches

As already noted, penalty notices primarily deal with one-off breaches that can be remedied easily. By contrast, where multiple breaches have occurred, there is likely to be a major or continuing problem which requires a long-term solution.

In deciding whether to issue multiple penalty notices (for example, for multiple breaches identified by a compliance inspection of an approved project), consideration needs to be given as to whether the breaches warrant the commencement of legal proceedings to achieve a more effective outcome and a higher level of deterrence.

Where multiple penalty notices are chosen as the most appropriate response, the investigating and authorised officers would need to be of the view that prosecution is not warranted. In general, no more than two penalty notices should be issued contemporaneously, however the final number will depend on individual circumstances and the reasons for issuing multiple penalty notices should be fully documented.

5.4 Penalty notices to public authorities

There are particular public interest issues that need to be considered in deciding whether to issue a penalty notice to a State or local government entity. Firstly, the public has an interest in public authorities abiding by the law and that the law should be applied equally to the private and public sectors. Secondly, it is ultimately the taxpayer that bears the cost of financial penalties issued to public authorities. As with all breaches, direct negotiation can be the most effective means to achieve compliance. However, in some cases, taking punitive action may be necessary where direct negotiation has not been effective or to act as a general deterrent.

Council will take into consideration the guidelines in Premier's Memorandum No. 1997-26 "Litigation Involving Government Authorities" when deciding whether to issue a penalty notice to a public authority. The guidelines will apply if a public authority which has been issued with a penalty notice elects to have it dealt with by a Court. Council will take steps, as set out in the guidelines, to consult with the authority and attempt to reach agreement on as many issues as possible.

The guidelines are based on the general principle that litigation between Government authorities is undesirable and should be avoided whenever possible. However the guidelines are not intended to interfere with the normal prosecution discretion of Government authorities. In any case, a penalty notice will only be issued to a public authority with the approval of the General Manager.

5.5 Consultation with other regulatory authorities

Compliance action taken by another authority does not preclude the Council from issuing a penalty notice and/or taking other compliance action in response to a breach of the legislation. However, where an offence is identified that another regulatory agency or local council may also be addressing, Council will consult with the responsible authority to facilitate a coordinated and constructive compliance approach.

6. Before issuing a penalty notice

A summary of the procedure for issuing a penalty notice is shown in **Figure 1** and detailed below.

6.1 Investigation and recommendation to issue a penalty notice

The investigation may be carried out by an officer authorised to issue a penalty notice or by another officer. The investigating officer must collect sufficient evidence to prove the offence in court (in the event that the penalty notice is contested by the alleged offender). Evidence may include items such as inspection notes, photographs or video, samples and statements from the alleged offender(s) or witnesses. Recorded statements or observations on the following are useful, particularly should the matter proceed to Court:

- the state of mind of the appellant, i.e. whether the offence was wilful and/or premeditated;
- the reason for committing the offence;
- cooperation with officers.

The investigating officer will provide a brief of the evidence to the authorised officer (if different), together with a recommendation on issuing a penalty notice and other compliance options, as appropriate.

Any evidence gathered during the course of the investigation must be kept and maintained in accordance with the Evidence Act 1995 and any relevant Council procedure, in particular the Council's Breach Management Guidelines.

It is absolutely essential that the brief of evidence prepared by the investigating officer establishes that an offence has been committed because if the person who receives the notice elects to have the matter heard in Court, the Council must be able to prove in Court that the offence was committed by that person.

For matters that would fall into the category of minor offences (prescribed penalty less than \$600.00, general traffic and parking offences) it is recognised that an investigating officers brief of evidence will ordinarily consist of notations and photographs capable of being managed through 'Pinforce Applications' or contemporaneous notebook. This is recognised as 'prima facie evidence' being evidence that, on the face of it, is sufficient to convict a person and is not merely speculative and as such no further evidence gathering or investigation would be required. Prior to loading data into a Pinforce application or issuing an infringement for a minor offence the investigating officer must, in recognition of Council's Compliance and Enforcement Guidelines, form a view as to the appropriateness of issuing a penalty or warning notice.

6.2 Decision to issue a penalty notice

Upon reviewing a brief of evidence and recommendation for a penalty notice, the relevant authorised officer will either:

- approve the recommendation;
- request further information from the investigating officer; or
- reject the recommendation and consider alternative compliance options.

To issue a penalty notice the authorised officer must hold the belief that:

- a penalty notice offence has been committed, and
- sufficient evidence has been collected to prove all the elements of the offence.

The decision on whether or not to issue a penalty notice will be recorded on the relevant Council file, together with the reasons for the decision.

6.3 Advice to alleged offenders

As soon as possible after an offence is identified (other than traffic or parking offences), the alleged offender will be notified of the offence, advised whether there is a likelihood of further compliance action and the range of possible compliance actions that may be taken. This also affords the alleged offender the opportunity to remedy the alleged breach.

If it is decided to issue a penalty notice, advice of that decision will also be given to the alleged offender as soon as possible after the penalty notice is completed.

6.4 Minor Offences (eg <\$600 fine, including parking, traffic offences)

When considering compliance and/or enforcement action for minor matters it is important that the matter of public interest is still appropriately considered.

In relation to 'minor offences' a key consideration of public interest is the level of resource required to be committed to the investigation process so as to obtain sufficient evidence to establish whether a breach has occurred and the facts surrounding the breach (including the identity of the responsible person(s)). In general terms the level of evidence required will have a direct relationship with the severity of the non-compliance action and prosecution response. All Council investigations are conducted in accordance with Council policy in a manner that is:

- objective, fair and impartial;
- consistent with the presumption that an alleged offender is innocent until proven otherwise;
- within the delegated authority of the investigating officers;
- in accordance with the law; and
- respectful of individuals.

Matters are considered to fall into the category of 'minor offences' where the breach is:

- relatively minor;
- an isolated or one-off incident;
- capable of being remedied quickly and easily;
- supported by sufficient evidence;
- prescribed penalty of \$600.00 or less;

and a fine is likely to be an effective deterrent.

For minor offences it is recognised that an investigating officer's brief of evidence will ordinarily consist of notations and photographs capable of being managed through 'Pinforce Applications' or contemporaneous notebook. This is recognised as 'prima facie evidence' being evidence, on the face of it, is sufficient to convict a person and is not merely speculative and as such not further evidence gathering would be required.

An officer may be satisfied that, as a matter of fact, there is sufficient information to establish that a penalty notice offence has been committed. However, the decision to issue a penalty notice is discretionary and an authorised officer can determine whether a penalty notice is an appropriate response to a particular offence. Officers will refer to Council's Breach Management Guidelines for further information on choosing an appropriate enforcement response.

7. Serving a Penalty Notice

7.1 Who must be served?

The notice must be served on the person who appears to have committed the offence. The person served has to be an individual or an incorporated body (such as a company or body corporate).

7.2 How must a penalty notice be served?

The notice has to be served personally or by post to a street address, not a Post Office box.

7.3 When must it be served?

There is no specific timeframe set out in legislation for the serving of penalty notices. However, a penalty notice will be served as soon as possible after Council investigates the alleged offence, to allow the recipient maximum opportunity to recall the events the subject of the notice.

As a matter of best practice it is desirable that penalty notices be served within 28 days of the breach being investigated or within 28 days of advising the alleged offender of the breach, whichever occurs first.

7.4 Submission of a penalty notice to the SDRO

There is no legal timeframe within which Part A of the penalty notice is to be submitted to the SDRO. However, for the purposes of this procedure Part A of the penalty notice should be forwarded to the SDRO at the same time the notice is issued to the alleged offender, or at least **within 1 week**.

7.5 Notifications within Council

Reporting on enforcement actions undertaken will be undertaken on a quarterly basis. Council's corporate reporting will include reports on compliance monitoring and enforcement actions undertaken as recorded within Council's (Commercial Client) consolidated accounts managed by the State Debt Recovery Office (warning and penalty infringement notices) and the Authority Compliance Register (warnings, notices, orders and prosecutions).

7.6 Cancellation of a penalty notice

In situations where the details on a penalty notice have been completed and there has been a subsequent decision not to issue the notice before it is served, the notice may be cancelled. For the purpose of this procedure a cancellation is to be forwarded to the SDRO as soon as practicable but within **2 weeks** of being completed.

Penalty notices forwarded to the SDRO for cancellation **must** be in the following format:

- Endorsed with the word “cancelled” on both Parts A and C.
- Clear statement of the reason for cancelling the notice.
- Name (printed in the box), Signature (in addition to name), Authority (name of organisation) and the date of cancellation must be provided by the issuing (authorised) officer.

Note: the SDRO processing fee is not charged for cancelled notices.

7.7 Withdrawal of a penalty notice

Information may become available following the issuing of a notice that may warrant its withdrawal. Circumstances in which a penalty notice may need to be withdrawn include:

- the notice was issued to the wrong person;
- it has since been determined that there is not a breach of the legislation;
- a lesser compliance action (eg warning letter) is more appropriate; or
- it has since been determined that prosecution is more appropriate.

In such circumstances a penalty notice may be withdrawn as soon as practicable, but within 28 days of service. The authorised officer who issued the penalty notice is responsible for completing the following process to withdraw a notice:

- prepare a letter or email notifying the SDRO of a withdrawal and a brief statement regarding the reasons;
- forward to the SDRO Business Development Unit; and
- contact the person to whom the penalty notice was issued and notify them that the notice has been withdrawn and provide the reason(s) for the withdrawal.

If the penalty notice has already been paid prior to withdrawal then the SDRO will refund the payment.

Where an alleged offender has elected to have the matter heard in Court, and there has been a subsequent decision to withdraw the penalty notice, the SDRO must be advised by the authorised officer at least **10 days** prior to the allocated date for the hearing.

Note: this provision should be viewed as a safety net only and not an option to be applied regularly.

7.8 Representations

A representation is a written application from the alleged offender for the penalty notice to be reviewed or withdrawn. Only written representations referred to Council by the SDRO will be considered. This is reflective of the ‘Premium Service Contract’ executed between Council and the SDRO.

To ensure impartiality, representations should be reviewed by an authorised officer other than the person who issued the original penalty notice. In most cases this will be the Manager unless they issued the notice. The details of the representation process are shown in **Figure 3**.

Representations made to the SDRO

The following process shall be followed:

1. The SDRO, upon receipt of a representation, will forward to the Manager – Development and Compliance a representations package including the actual representation from the alleged offender.
2. The Manager – Development and Compliance will, **within 2 days** of receiving the representations package, request from the authorised officer who issued the penalty notice:

- (a) A briefing note including all facts relating to the issue of the penalty notice; and
- (b) A statement specifying that the notice was or was not issued in accordance with this guideline, and a recommendation to pursue one of the following options:
 - Infringement to stand (“ITS”) - the penalty notice should remain in force and the penalty is to be paid; or
 - Caution - there are extenuating circumstances where leniency may be considered. These circumstances should be clearly set out; or
 - No action - the notice was issued incorrectly or not in line with policy and no offence is disclosed.

This information will be forwarded to the Manager – Development and Compliance **within 1 week** of receiving the request.

3. The Manager – Development and Compliance will forward the outcome of the review, contained in the completed representations schedule, to the SDRO **within 2 weeks** of the representations package being received.

If consideration of the representation is likely to take more than 2 weeks, a request to have the matter suspended should be immediately sent to the SDRO. The Manager – Development and Compliance must approve of the suspension action prior to the SDRO being notified.

The SDRO is to be advised immediately a decision on the representation is made.

Representations to the Council

Any representation made to the Council should be immediately forwarded to the SDRO to be processed as described above. Written advice that the representation has been forwarded to the SDRO must be sent to the person making the representation.

Records of representations

The Manager – Development and Compliance is responsible for the maintenance of completed representations and SDRO schedule files. For audit purposes, a representation file must be retained for two years after the date of issue of the penalty notice.

7.9 Court elections

If an alleged offender elects to have a matter determined in Court, they will fill out the “Court election” component of the penalty notice and return it to the SDRO. The SDRO will then advise the Council. Any Court election received by Council must be referred **immediately** to the Manager – Development and Compliance, who will require a brief of evidence from the authorised officer who issued the penalty notice.

Appendix 3 – Prosecution Guidelines

1. Introduction – Enforcement Role

Council has responsibilities under the Local Government Act, and an important function in discharging that responsibility is the enforcement of the requirements of the various Acts and Regulations and decisions made under the Act.

Taking enforcement action to uphold the legislation ensures that its requirements remain effective. In some cases, the appropriate enforcement action is the prosecution of wrongdoers for offences against an Act and relevant regulations.

This document has been prepared to inform Council officers of the basis upon which a decision to prosecute an offender is made. In particular, these guidelines will guide authorised officers who have been appointed under the Act to exercise the Council's enforcement powers.

The purpose of these guidelines

The purpose of these guidelines is to identify:

- (a) the basis upon which a decision to prosecute is made;
- (b) the alternatives to prosecution;
- (c) the factors to be taken into account in deciding who to prosecute;
- (d) the factors to be taken into account in deciding which charges to lay;
- (e) the factors to be considered in determining which Court to commence the proceedings; and
- (f) factors considered before commencing an appeal against a sentence imposed on an offender.

These guidelines are not legally binding.

2. Prosecution

Prosecution involves commencing **criminal** proceedings against a person for an offence against an Act or regulations. It is an important element of enforcement which aims to punish wrongdoers and act as a deterrent to the individual and the public at large.

Like most statutes, legislation specifies that a breach of any of its provisions (including the regulations) is an offence. A person found guilty of such an offence will receive a criminal conviction and is liable to a penalty.

Given the seriousness of a criminal conviction and the significant penalties that may be imposed, the decision to prosecute requires careful consideration of a number of factors which will vary from case to case. The following provides guidance on the principles to be applied when deciding whether a criminal prosecution is the appropriate option for dealing with a breach of the Act or regulations.

2.1 The decision to prosecute

2.1.1 Is prosecution available?

A consideration in deciding whether or not to prosecute is whether a conviction for an offence is precluded by an Act. A person cannot be convicted of an offence if the offence is the subject of:

- a) civil enforcement proceedings to remedy or restrain a breach of an Act which have not concluded; or
- b) an order made by the Court to remedy or restrain a breach; or
- c) civil enforcement proceedings which have concluded but did not result in the making of a Court order.

2.1.2 Evidence

To commence a criminal prosecution, Council must have 'prima facie evidence' that a person has committed an offence under an Act or regulations. This means evidence which, on the face of it, is sufficient to convict a person and is not merely speculative.

2.1.3 Public Interest

While Council has a responsibility to enforce certain laws, the decision to prosecute for an offence is discretionary. In other words, Council may choose whether or not to commence a prosecution, or whether other enforcement options are appropriate to uphold laws. The law requires Council to turn its mind to the exercise of enforcement powers, but it does not require Council to exercise them.

The law recognises that the dominant consideration in deciding whether to prosecute is whether a prosecution is in the public interest. As expressed by one judge of the High Court, “the decision when and in what circumstances to enforce public law frequently calls for a fine judgement as to what the public interest truly requires.”

The criteria for commencing a criminal prosecution cannot be reduced to a formula. In making a ‘fine judgement’ on whether a prosecution is in the public interest, the relevant Council officer will take into account a range of factors which will vary with the circumstances of each case. The task is to assess individual cases which come before it and recommend the appropriate enforcement action to be taken by the relevant officer. The general principles to be considered are set out in the following section.

2.1.4 Public interest factors relevant to a decision to prosecute

The general proposition is that prosecutions relate to serious offences, not trivial offences. Therefore, a minor or technical breach of a statutory requirement would not, in the absence of other aggravating factors, justify a prosecution (eg submitting an environmental monitoring report a few days late).

Other factors which are relevant in deciding whether it is in the public interest to prosecute for an offence include the following:

- (a) the degree of harm or potential harm caused by the offence to the environment (both natural and built), human health or the social and economic fabric of the community;
- (b) the degree of fault of the alleged offender;
- (c) the availability of any alternatives to prosecutions;
- (d) whether the breach is a continuing or second offence;
- (e) whether the offender has previously been dealt with by other less serious enforcement options (and therefore prosecution may be more effective);
- (f) whether or not the alleged offence is of considerable general public concern;
- (g) the prevalence of the alleged offence and the need for deterrence, both specific deterrence (of that individual) and general deterrence (of the community at large);
- (h) the length of time that has elapsed since the alleged offence;
- (i) the age, physical or mental health or special infirmity of the alleged offenders or witnesses (mitigating factors);
- (j) whether an urgent or prompt resolution is required (prosecution proceedings do not bring about an immediate solution);
- (k) the human and financial resources required to conduct Court proceedings;
- (l) any precedent which may be set by not instituting proceedings;
- (m) whether the consequences of any conviction would be unduly harsh or oppressive; and
- (n) whether proceedings are to be instituted against others arising out of the same incident.

2.1.5 Matters not relevant to a decision to prosecute

A decision whether or not to prosecute will not be influenced by:

- (a) any elements of discrimination against a person, eg race, nationality, political associations;
- (b) personal empathy or antipathy towards the offender;
- (c) the political or other affiliations of those responsible for the prosecution decision;
- (d) possible political advantage or disadvantage to the government or any political party, group or individual;
- (e) the possible effect of the decision on the personal or professional circumstances of those responsible for the investigation or otherwise involved in its conduct; or
- (f) possible media or community reaction to the decision.

2.1.6 Who may prosecute

As prosecution for offences under the Act or regulations must be in the public interest, it follows that the Council and other public authorities charged with acting in the public interest have the right to bring Court proceedings. By contrast, private citizens may only bring prosecutions in very limited circumstances.

Local Councils:

A **Minister** may bring prosecution proceedings for a breach of the Act or regulations.

A **Local Council** may also bring proceedings for breaches of the Act or regulations which relate to its regulatory powers and functions (eg offences relating to breach of orders, development consents for which it is the consent authority and planning instruments). There may be instances where the Minister and Council's enforcement functions overlap. For example, a person may carry out excavation work contrary to a development consent granted by a council under Part 4. The extent of that excavation may be so significant that it amounts to 'extractive industry' and requires State approval under the Act. Consequently, it is open to the council to commence a prosecution for breach of its consent or the Minister could prosecute for failure to obtain an approval under the Act. The appropriate body to commence a prosecution will depend upon the particular circumstances surrounding the offence. Legal Advice should be sought in such cases.

Private citizens:

Members of the public have no automatic legal right to bring criminal proceedings for an offence under the Act; they require the leave of the Court to do so. A person must demonstrate a special interest in enforcing the public duty which is greater than the rest of the public generally. For example, a person might be held to have a special interest where an offence affects their property rights or has caused them to suffer damages.

In practice, private citizens are more likely to bring civil proceedings than criminal proceedings in response to a breach of the Act because:

1. they do not need the Court's leave to commence civil proceedings;
2. there is a lower burden of proof to succeed in civil proceedings than in criminal proceedings;
3. civil proceedings can be less costly than criminal proceedings.

2.1.7 Time within which to commence proceedings

Generally, proceedings for an offence against an Act or regulations must be commenced **no later than 2 years**:

- (a) after the offence was alleged to be committed; or
- (b) after the date on which the alleged offence first came to the attention of an authorised officer.

It is therefore essential to properly record the date on which evidence of an alleged offence first came to the attention of an authorised officer.

3. Alternatives to prosecution

In determining whether a prosecution is in the public interest, Council will also consider whether other enforcement options are appropriate. The following provides an overview of alternatives to prosecution, each of which are dealt with more fully in other chapters of the Council's Guidelines.

3.1 Penalty notices

Penalty notices are primarily designed to deal with one-off breaches of a relatively minor nature that can be remedied easily. Once a penalty notice fine is paid, further prosecution proceedings cannot be brought against any person for the alleged offence. However if a penalty notice is withdrawn before payment of the fine, then further proceedings may be brought for that same offence. Should the recipient of the penalty notice elect to have the matter determined by a Court, the matter would be heard in the criminal jurisdiction of the Local Court. The Council's Penalty Notice Guidelines provide guidance on the issuing of penalty notices.

3.2 Orders/Directions given by Council

Council Officer can give Directions/Orders in respect of various matters or offences against Act or Regulations. Orders cannot require the payment of a fine. Orders are an effective enforcement option when a person complies with its terms in the required timeframe. Where there is non-compliance, civil or criminal proceedings may ultimately be necessary to enforce the order (such as a fire safety order).

The Council's Breach Management Guidelines set out more information on orders.

3.3 Civil proceedings

An alternative to criminal prosecution is bringing civil proceedings for a breach of the Act. Civil proceedings are appropriate where the Council seeks a Court order to restrain or remedy a breach of an Act.

Civil proceedings may be brought not only by the Council, but by 'any person'. Unlike criminal proceedings, a private citizen may bring civil proceedings regardless of whether the breach has affected (or will affect) the rights of that person.

As noted above, once civil proceedings have commenced, a person cannot be convicted and fined in criminal proceedings for the conduct to which the civil (and proposed criminal) proceedings relate **except** where the Court declines to make an order in those civil proceedings.

3.4 Undertakings to restrain or remedy a breach

An alternative to prosecution is the Council and offender entering into an undertaking whereby the offender will take action to remedy a breach which has already occurred, or will refrain from taking action where a breach is anticipated. This option is an 'outcome-based' option rather than one which seeks to punish an offender.

Such an undertaking is, in effect, a record of what the offender has agreed to do and may not be legally enforceable against the offender. However, this option may result in an outcome which is quicker and less costly than bringing a prosecution. If an offender fails to comply with an undertaking, more serious enforcement options can then be addressed. A failure to comply with an earlier undertaking would not weigh in the offender's favour in any later prosecution proceedings for that offence.

4. Selecting the appropriate defendant

4.1 Different sources of liability

Liability for offences under the Act may be imposed on:

- a) the person who actually committed the offence;
- b) person who did not personally commit the offence, but who the law holds responsible for an offence committed by another person (for example, employers may be responsible for the acts of their employees, corporations may be held liable for their company directors);
- c) a person who participated in a crime committed by another person and is therefore liable as an accessory.

More than one person may therefore be liable for an offence arising from the one activity. For example, where unauthorised development work has been carried out by a builder in accordance with a direction given by the owner of the property, both the builder (as the principal offender) and the owner (as an accessory) may be liable for an offence.

4.2 Relevant factual issues

Factual matters which will be identified before deciding who to prosecute for an alleged offence include:

- (a) the person who actually committed the act (or omitted to act) which gave rise to the offence (the principal offender);
- (b) any other person(s) who assisted the principal offender in the commission of the offence;

- (c) whether the person is an employee and, if so, the scope of their employment and the seniority of the position held;
- (d) whether the person is a corporate officer (eg company director) and, if so, the scope of their duties and functions;
- (e) where an offence was committed by an employee or corporate officer, did they commit the offence:
 - in the course of carrying out their employment or duties (so that the employer/corporation may also be liable); or
 - outside the scope of their employment or duties (so that only the individual and not the employer/corporation may be liable).
- (f) the state of mind of the offender (and any accessory), for example, whether they acted in good faith, whether they knew or should have known that the conduct was an offence and whether they took reasonable steps to avoid the offence.

It is often difficult to determine the most appropriate person(s) to be held liable for an offence. This issue is fundamental to a successful prosecution and legal advice must be obtained before proceedings are commenced.

4.3 Prosecution of Public Authorities

4.3.1. Public Interest

Public authorities have a responsibility to comply with the law and, unless the legislation provides otherwise, they can be guilty of the same offences as the rest of the community.

As with all prosecutions, deciding whether prosecution of a public authority is the appropriate method of enforcing compliance involves a consideration of the public interest. However prosecution of one Government authority by another also involves competing public interests:

- on the one hand, the public interest in authorities abiding by the law and accepting responsibility for the consequences of a breach of the Act;
- on the other hand, the public interest in minimising the cost to the public, as it is the taxpayer that bears the cost of any prosecution of a public authority as well as the cost of its defence.

4.3.2. Consultation

Generally, litigation between Government authorities is undesirable and should be avoided where possible. This principle is expressed in guidelines issued by the Premier's Department for litigation involving public authorities (Premier's Memorandum M1997-26). The guidelines apply to all Government departments and encourage attempts to settle or narrow disputes between authorities.

When considering whether to prosecute a public authority, Council must take the steps set out in the guidelines to consult with the authority against whom the prosecution is contemplated. A copy of Premier's Memorandum M1997-27 can be found on the website of the Department of Premier and Cabinet (www.dpc.nsw.gov.au).

The consultative steps set out in the Memorandum may facilitate remedial action and may expedite any Court hearing by better defining the facts in issue. Consultation can also focus on longer term strategies and directions. Indeed, the consultative process, as an adjunct and not necessarily an alternative to prosecution, will not be restricted to public authorities but can be applied to the private sector as well. It would be inappropriate to enter consultations with Government departments solely to achieve a 'by consent' prosecution wherein the charges laid do not reflect the gravity of the offence. However, it is in the public interest that Court proceedings involving public authorities are concluded quickly. Council will, therefore, define the facts in issue and, with the concurrence of the other authority, will prepare and tender to the Court an agreed statement of facts.

5. Choosing the appropriate Court

Proceedings for an offence against regulations are brought in the local Court.

Proceedings for an offence against an Act may be brought in either the local Court or the Land and Environment Court of New South Wales. The maximum penalty which can be imposed by each Court is an important factor in deciding which Court to commence a prosecution in for an offence against the Act. This is discussed further below.

Land and Environment Court:

The Land and Environment Court (LEC) is a specialist Court which determines environmental planning and protection disputes, including criminal prosecutions for offences. An LEC prosecution is commenced in the Court's criminal jurisdiction (class 5) and is heard by a judge without a jury. The LEC has power to impose significant fines up to \$1,100,000 for an offence and, for continuing offences, a further penalty of up to \$110,000 for each day the offence continues.

Local Court:

Prosecution proceedings in a local Court are heard by a magistrate in the Court's criminal jurisdiction. The maximum penalty which can be imposed by a local court is \$110,000 - significantly less than the LEC.

Which Court?

Prosecution of an offence against regulations is taken before the local Court.

Prosecution of an offence against an Act, however, may be taken before a local court or the LEC; the choice of court will depend upon the circumstances of the particular offence.

An LEC prosecution is appropriate for serious offences under the Act where a significant penalty is warranted to punish the offender and deter future breaches. For example, an offence which has harmed the environment and/or was knowingly committed, may warrant a penalty higher than \$110,000 (ie the maximum which can be imposed by a local Court). In addition, the specialist jurisdiction of the LEC may be more appropriate to adjudicate technical issues and evidence which are the subject of a prosecution.

Conversely, local Court prosecutions may be appropriate for less serious offences which do not involve environmental harm or deterrence of repeat offenders, nor require adjudication by a magistrate on specialist technical issues.

6. Sentencing considerations

Where a person is found guilty of an offence, the Court will consider a number of matters to determine a sentence which 'fits the crime'. The general principle is that a sentence must reflect the seriousness of the offence and the personal circumstances of the offender. The following is an overview of sentencing considerations to assist Council's consideration of possible sentencing if a prosecution is successful:

Relevant considerations in determining the seriousness of the offence:

- the offender's state of mind;
- the offender's reasons for committing the offence;
- the foreseeability of the risk of harm;
- practical measures which could have been taken to avoid the risk of harm;
- the offender's control over the causes of the harm; and
- whether the offender was complying with orders from an employer or supervising employee when the offence was committed.

Relevant considerations in determining the personal circumstances of the offender:

- existence of or lack of prior criminal activity;
- good character of the offender;
- whether there has been a plea of guilty and the timing of that plea;

- whether the offender has expressed contradiction or remorse;
- whether the offender has assisted or cooperated with authorities; and
- the financial means of the offender.

7. Appeals against sentence

A Council may appeal against sentences imposed by Local Courts and the Land and Environment Court for offences. Although the Land and Environment Court has the power to impose greater fines than those which may be imposed by the Local Court, it does not necessarily follow that an appeal on sentence will result in a higher fine being imposed.

In deciding to appeal a sentence, Council will be guided by the Prosecution Guidelines of the Office of the Director of Public Prosecutions, New South Wales. The key factors to be taken in account are:

- a) appeals should only be brought to establish and maintain adequate standards of punishment for environmental crime or to correct sentences that are so disproportionate to the seriousness of the crime as to lead to a loss of confidence in the administration of criminal justice; and
- b) appellate Courts will intervene only where it is clear that the sentence has made a material error of fact or law or has imposed a sentence that is manifestly inadequate.

In general, an appeal will only be instituted where it is considered likely to succeed. Any such appeal is to be brought promptly.

Appendix 4 – Communication Guidelines

Communications Guideline – proactive and reactive media Lismore City Council compliance and enforcement work

This guideline is intended to clarify the situations when it is appropriate to name proponents/ developers/ companies or provide details of incidents, with respect to the enforcement activities of Council. The guideline attempts to balance the public's right to information, with the need to ensure the work of the Development and Compliance Program Area is not compromised.

Council recognises the importance of providing information on its activities to maintain transparency and public accountability. The default position is for the Council to provide information on its compliance activities, except where provision of that information may:

- compromise any investigation into a potential breach or prejudice any resultant litigation; or
- compromise Council's ongoing working relationships with proponents, complainants, councils or other stakeholders.

Investigations:

Council conducts investigations into potential breaches of legislation administered by Council. Information obtained from investigations may need to be used in evidence for matters that result in litigation. To avoid any risk of compromising Council's investigations or prejudicing any subsequent litigation, Council does not divulge information concerning potential breaches under investigation, including who or what is being investigated.

Stakeholder relationships:

Under conditions of approval, proponents are sometimes required to "self-report" incidents that may involve potential breaches. Council can rely on "self-reporting" to identify breaches which might otherwise not be detected through inspections and routine monitoring. Council will generally not provide information about less serious matters self-reported by proponents, as this may have the potential to discourage companies from "self-reporting" breaches of their consent conditions. Unwarranted public attention could also diminish the co-operation of companies during investigations if they believe they will be unfairly "named and shamed". This may make it more difficult and time-consuming for the compliance unit to undertake investigations of suspected breaches, ultimately resulting in sub-optimal compliance outcomes.

Where Council receives information from complainants Council will not release details that may result in the identification of the complainant, to ensure their privacy is maintained. Council would consider identifying other agencies who report potential breaches to Council, providing any sensitivities surrounding these stakeholders are not compromised, and any investigation is not compromised.

Council recognises that where companies have clearly acted in breach of their obligations, and more serious enforcement actions have been taken, it is appropriate that these companies be identified and be publicly accountable to their communities.

The following table sets out when incidents should be detailed or proponents named, either:

- a) Proactively (eg through reports or a media release); or
- b) Reactively, in response to specific media inquiries.

The Manager – Development and Compliance may, on a case-by-case basis, decide on a different approach to the level of information about an incident (ie more detail or less detail) which is provided to the media, in consultation with the communications officer of Council.

Type of action	Proactive communication (report or media release)		Reactive communication	
	Name company?	Information provided	Name company?	Information provided
Inspections	No	<ul style="list-style-type: none"> General information about the nature of inspections and actions resulting. No site specific details. 	No	<ul style="list-style-type: none"> General information about the number and type of inspections and the general outcomes. No site specific details/ name (unless the inspection led to enforcement actions, as in table 2.)
Negotiated outcome	YES (if agreed to by company.) NO (if not agreed by company.)	<ul style="list-style-type: none"> Include general information if the seriousness of the incident or public interest warrants it. Name the proponent if they have agreed to be identified as part of the negotiated outcome. 	YES (if agreed to by company.) NO (if not agreed by company.)	<ul style="list-style-type: none"> Additional information of a general nature if proponent has agreed to be named. If proponent does not want to be named, no additional information to be provided, as negotiated outcomes involve cooperation from the proponent.
Advisory letter	NO	<ul style="list-style-type: none"> Statistics in compliance report. 	NO	<ul style="list-style-type: none"> No additional information, as these are an administrative information tool.
Warning letter	NO	<ul style="list-style-type: none"> If the seriousness of the incident or public interest warrants it, provide general information in the compliance report about the nature of the warning letter. 	NO (if self-reported) YES (if not self-reported)	<ul style="list-style-type: none"> Additional information provided, including site specific details, if company has not self-reported and the Council has had to proactively identify the compliance issue and act. No site-specific information if the company self-reported.
Enforceable undertaking	YES	<ul style="list-style-type: none"> Statistics in compliance report. 	YES	<ul style="list-style-type: none"> No additional information, as this is a step within the investigation process and indicates inquiries and investigations are ongoing.
Notices to produce information and records	NO	<ul style="list-style-type: none"> Statistics in compliance report. 	NO	<ul style="list-style-type: none"> No additional information, as this is a step within the investigation process and indicates inquiries and investigations are ongoing.
Draft orders	NO	<ul style="list-style-type: none"> Statistics in compliance report only. 	NO	<ul style="list-style-type: none"> No additional information, as this stage indicates the enforcement action has not been finalised.
Order from the Council	YES	<ul style="list-style-type: none"> Include in compliance report and/ or prepare a media release with name of company and details of incident and order. 	YES	<ul style="list-style-type: none"> Provide additional information about the incident and investigation and reasons for the order, if requested.
Court order	YES	<ul style="list-style-type: none"> Include in compliance report and/ or prepare a media release with name of company and details of incident and court order. 	YES	<ul style="list-style-type: none"> Provide additional information about the incident and investigation and reasons for the court order, if requested.
Penalty notice	YES	<ul style="list-style-type: none"> Include in compliance report and prepare a media release with name of company and details of incident and penalty. 	YES	<ul style="list-style-type: none"> Provide additional information about the incident and investigation and reasons for the penalty notice, if requested.
Court order		<ul style="list-style-type: none"> Include in compliance report and/ or prepare a media release with name of company and details of incident and court order. 		<ul style="list-style-type: none"> Provide additional information about the incident and investigation and reasons for the court order, if requested.
Penalty notice		<ul style="list-style-type: none"> Include in compliance report and prepare a media release with name of company and details of incident and penalty. 		<ul style="list-style-type: none"> Provide additional information about the incident and investigation and reasons for the penalty notice, if requested.
Prosecution	Before and during court proceedings			
	NO	<ul style="list-style-type: none"> Include in compliance report with information of a general nature, but not site specific details such as the name of the proponent. 	NO	<ul style="list-style-type: none"> No further details provided by the Council, but the media may be referred to the court for further information.
	Court action completed			
	YES (if court success)	<ul style="list-style-type: none"> If the prosecution was successful, include in compliance report, with site specific information and the name of the proponent, and the penalty imposed. 	YES (if court success)	<ul style="list-style-type: none"> If prosecution was successful, provide additional further information as requested about the incident, proponent, background about the site or previous incidents, penalty imposed and maximum penalties.
	NO (if no success in court)	<ul style="list-style-type: none"> If prosecution unsuccessful, no proactive communication as the allegation is not proved and media scrutiny of the company would be unwarranted. 	NO (if no success in court)	<ul style="list-style-type: none"> If unsuccessful, refer the journalist to the court or provide information that is already on the public record, while making it clear that the action was unsuccessful and the allegation was not proved.

Appendix 5 – Acknowledgements and Additional Resources

Lismore City Council would like to thank and acknowledge the NSW Department of Planning and Infrastructure for freely allowing the reproduction of a large section of these guidelines as a basis to assist Council in ensuring best practice in exercising its compliance and enforcement functions.

The NSW Ombudsman's Office published 'good practice' enforcement guidelines in 2002 to help councils act promptly, consistently and effectively in response to allegations of unlawful activity. These guidelines were the basis of Council's former policy from December 2008 to June 2013, and are a useful tool to assist Council staff in determining appropriate enforcement outcomes in the event of uncertainty or for further information. These guidelines are considered to be consistent with the NSW Ombudsman's Office 'good practice' enforcement guidelines.

The ICAC, Division of Local Government, the Building Professionals Board and the Department of Planning and Infrastructure all publish practice guidelines that relate to exercising regulatory functions by Councils, and these resources should be consulted on a regular basis to ensure up to date practice in legislation and enforcement practice is observed.

Council also has a panel of firms that provide legal advice to Council staff on a variety of matters, and this resource will be used to ensure the efficient and effective use of Council resources in responding the compliance and enforcement matters.

Sample Text for 1st contact letters on compliance matters

#####

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13 January 2014

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Dear #####

Possible breach of NSW legislation

I am writing to you to follow up a on possible non-compliances with the provisions of NSW legislation at your property located at **[Insert address: #####]**.

Council's desired outcome is to work with you to resolve the identified issues and ensure compliance with the relevant legislation, regulations and policies is achieved.

Details of the possible non-compliances detailed are below.

Background

Further to **[Insert details/ date(s) of any previous contact]** Council is seeking your cooperation in resolving the complaint/observation **[insert details of the complaint]**

A preliminary investigation of this matter was carried out by Council staff on **[insert date (s)]** in response to the complaint/s which identified that **[insert details of the inspection/ investigation/ outcomes]**

The above matters are of concern for the following reasons:

[Insert details]

(Include a reference to relevant legislation)

What Council is proposing (remedial actions)

In order to address the said concerns, Council has itemised the following options for you, these being:

[Insert details in point or dot form]

If you wish to discuss alternative options which, satisfactorily address Council's concerns, enquiries are welcome.

Council would appreciate your response with your proposed schedule of works to address these concerns, together with a reasonable timeframe to undertake those measures This information must

be provided in writing **prior to [Insert date]** for consideration by Council staff, who will then determine what follow up action which may be appropriate in the circumstances.

Please do not ignore this letter as fines or penalties may apply if Council does not receive an adequate response. In preparing your response to the above matters, you are invited to provide your reasons for why Council should not issue a fine or penalty by the above date.

Council wants to ensure that any decision in accordance with Council policy is based upon the facts. This is why we want to hear your version of events.

Upon receipt of information or advice from you, Council staff will:

- review those submissions;
- make reasonable inquiries or investigations and ensure that a decision is based upon findings of fact that are in turn based upon sound reasoning and relevant evidence;
- act fairly and without bias in making decisions, ensuring a person doesn't decide a case in which they have direct interest;
- conclude the investigation or address an issue with minimal delay;
- determine what action (including a possible fine/penalty) is appropriate in the matter plus your cooperation in responding to Council's concerns.

Please read the attached fact sheet on our approach to compliance, enforcement and dealing with complaints or breaches of NSW legislation. This is important information that may assist you in responding and understanding the process.

If this matter is not addressed we may be forced to consider further action regarding the issues highlighted, and accordingly your co-operation within the time specified would be much appreciated..

If you are unsure of any of the above issues or information, require any clarification of this letter, or wish to explore alternative options, please do not hesitate to contact **[insert name of officer#####]** on 1300 87 83 87, Monday to Friday.

Yours faithfully

[NAME#####]

[TITLE#####]

Notice of Motion / Question with Notice

Councillor Big Rob has put the following question with notice:

Can the General Manager please advise if there is any reason why Council can't record public Council briefing sessions, and the recordings to be made available to councillors and staff upon request?

Attachment/s

There are no attachments for this report.

TRIM Record No: BP25/551:EF19/25-7

General Manager's response:

There is no reason public briefings cannot be recorded. Recording settings in Microsoft Teams will mean it is automatically available to anyone invited to the meeting at its conclusion.

Confidential Business



Confidential Matters – Closed Council Meeting

A Council may close to the public only so much of its meeting as comprises the receipt or discussion of any of the following:

Section 10A(2) – *Local Government Act 1993*:

- a) personnel matters concerning particular individuals;
- b) the personal hardship of any resident or ratepayer;
- c) information that would, if disclosed, confer a commercial advantage of a person with whom the Council is conducting (or proposes to conduct) business;
- d) commercial information of a confidential nature that would, if disclosed:
 - i) prejudice the commercial position of the person who supplied it, or
 - ii) confer a commercial advantage on a competitor of the Council, or
 - iii) reveal a trade secret;
- e) information that would, if disclosed, prejudice the maintenance of law;
- f) matters affecting security of the Council, Councillors, Council staff or Council property;
- g) advice concerning litigation, or advice, that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
- h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Clause 14.9 of Council Code of Meeting Practice

Representations from the public as to whether part of the meeting should be closed to the public can be made after the motion to close the meeting has been moved and seconded.

Recommendation

That the Council exclude members of the press and public from the meeting and move into Closed Council Meeting to consider the following matters:

Item	12.1 Tender T532425RTC - Quarry Crushing and Screening Services at Blakebrook Quarry
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
Item	12.2 Recommendation for Award: Casual Plant Hire Panel
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.
Item	12.3 Supply and Delivery of Bulk Fuel, Fuel Cards and Lubricants
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: commercial information of a confidential

nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN
COUNCIL CHAMBERS ON TUESDAY 8 JULY 2025 AT 10.00AM**

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Mayor, Councillor Krieg; Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Rob together with Mr Butron, Acting General Manager; Mr Smith, Acting Chief Operating & Financial Officer; Mr Snow, Acting Chief Corporate & Community Officer; Mr Reinhold, Executive Planner; Mr Kelly, Technology Support Officer; Ms Cotterill, Governance & Risk Manager and Mrs Mitchell, Executive Officer to the General Manager & Mayor and Councillors.

Apologies and Applications for Leave of Absence or Attendance by Audio-Visual Link

144/25 **RESOLVED** that attendance by audio-visual link be approved for Councillor Hall

(Councillors Dalton-Earls/Bing)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Confirmation of Minutes

145/25 **RESOLVED** that the minutes of the following meeting be confirmed:

- Extraordinary Council meeting 17 June 2024
- Confidential Extraordinary Council meeting 17 June 2024
- Ordinary Council meeting 10 June 2025
- Confidential Council meeting 10 June 2025

(Councillors Gordon/Dalton-Earls)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Disclosures of Interest

Clr Rob declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 12.2 Legal Matter: Monaltrie v Santin & Anor
Nature: I know Mr Santin

Clr Hall declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 12.2 Legal Matter: Monaltrie v Santin & Anor
Nature: I know Mr Santin

Clr Bing declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 12.2 Legal Matter: Monaltrie v Santin & Anor
Nature: I know Mr Santin

Clr Jensen declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 12.2 Legal Matter: Monaltrie v Santin & Anor
Nature: I have met Mr Santin

Clr Gordon declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 12.2 Legal Matter: Monaltrie v Santin & Anor
Nature: I know Mr Santin

Clr Dalton-Earls declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 11.5 RTRL Vacant Land & Administration Centre
Nature: I am a member on the RTRL Committee

Clr Battista declared a Non-Pecuniary, Non-Significant Conflict of Interest for the following item: 11.4 Naming of Oakes Oval grandstand
Nature: Mr Foster is a relative to my wife

Mayoral Minute(s) and Condolence Motions

7.1 Condolence Motion - Dr Ros Irwin

146/25

RESOLVED that Council:

1. receive and note the Condolence motion
2. forward a letter of condolence to the family from the Mayor

(Councillors Krieg/Knight-Smith) (BP25/427)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Dr Roslyn Irwin was born on 3 April 1943 and moved to Lismore in the late 1980's to manage Commonwealth Employment Service later becoming the Regional Manager.

Ros was an independent councillor with Lismore City Council from 1992-2008 and became Lismore's first female Mayor from 1997-1999. During this time she served on numerous local and state committees, including the now Rous County Council as the chair for two years, the NSW Arts Advisory Council and a member of the Local Government Association Board for five years.

Ros became a lecturer in politics and humanities at Southern Cross University, as well as completing her PhD in political science, conducting research into women leaders in government in five countries.

After serving on Council Ros devoted herself to being a community activist with a priority on coal seam gas, koalas and wildlife.

She continued being active in the community with a keen interest in the arts and cultural life of Lismore, volunteering at the Lismore Soup Kitchen and Friends of the Koala, including time as President from 2017 until 2020.

Ros lived a full and happy life and will be fondly remembered and sadly missed by her husband Bill, her daughter Nicole and family as well as her many friends in Lismore on Bundjalung Country.

Please join me in a moments silence for Dr Ros Irwin.

7.2 Condolence Motion - Barry Davidson

147/25 **RESOLVED** that Council:

1. receive and note the Condolence motion
2. forward a letter of condolence to the family from the Mayor

(Councillors Krieg/Rob) (BP25/428)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Barry Davidson was born on 29 August 1930 at the family home in Shirley Street, Byron Bay, he was the youngest of 10 children. His early schooling was at St Finbar's Byron Bay and secondary schooling at St John's College, Woodlawn where plenty of sport helped pass the time as a boarder.

Following school, Barry secured an apprenticeship as a fitter at Norco in Byron Bay. During this time, sport again was a key ingredient with him playing rugby league and cricket. In his early 20's, he needed a change of scenery and headed to Sydney for a period. However, the call of Byron Bay was strong and Barry returned, where he worked in the sand mining industry which was being established up and down the coast. Back in Byron, he met a teacher from the local Broken Head school, a young Joyce Baker. Barry often remarked he won the lottery when he met Joyce.

Barry and Joyce married in Grafton in 1954 and moved from Byron Bay to Lismore due to work opportunities and to raise their three children. Barry worked at engineering firm Readings, AEG and again Norco who were building a new butter factory. He would eventually move to the Northern Rivers County Council where, as a fitter, he would maintain the diesel generators at the Lismore Power Station.

Eventually looking for a move outdoors, he took a job with the Council as a Meter Reader. He was often sent out to chase customers who were behind in their accounts. This included some bkie enterprises and as Barry liked a chat, they would often pay him the outstanding amount to make him go away.

During his working life in Lismore, Barry became quite involved in sport and media activities. He moved from playing rugby league to refereeing. This continued for many seasons and life membership was bestowed on him from both Group One Rugby League and the Referees Association.

Barry's confidence and the love of a chat, led him in the late 1960s to hosting on the local television channel, a rugby league program reviewing previous and upcoming matches. This initial television program led to a long association with radio station 2LM, where from 1971 he started calling rugby league matches with his great friend Harry Grew.

In the 1972, Barry commenced a program on 2LM focussing on local sport including interviews with the occasion national star or personality should they be competing in the area. The important thing about the program was all sports got a mention, irrespective of the profile and number of participants. The program ran for over 15 years where he conducted over 2,400 interviews.

Whilst working for 2LM, in the 1970's he also became the part time correspondent for the ABC in Lismore – this included gathering information from Council meetings, checking with the emergency services and the unofficial rain measurements from the Davidson backyard.

When ABC radio moved its studios from Grafton to Lismore, his part time correspondent days were already over, however he ended up again running a local sports program – this time on ABC radio. He also managed to host a Saturday night music show on the ABC.

Lismore City Council renamed a number of ovals after local residents who had made significant contributions to local sports. Barry was honoured with Rec 10 being renamed as Barry Davidson Oval.

In 2001, Barry was awarded a Centenary Medal for services to journalism and sport.

On retirement Barry took to volunteering, this included Meals on Wheels and the Lismore library. Joyce and Barry moved to Caroon in Goonellabah in September 2019 and celebrated their 65th wedding anniversary a few months later.

Sadly, in March 2020, Barry lost Joyce, now they are reunited once again.

Barry lived a full and happy life and will be sadly missed by his children, family and friends.

Please join me in a moments silence for Barry Davidson.

Reports of Committees

8.1 Local Traffic Committee - 26 March 2025

148/25 **RESOLVED** that the minutes be received and the recommendations contained therein be adopted.

(Councillors Hall/Bing) (BP25/434)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

8.2 Lismore Flood Risk Management Committee - 4 June 2025

149/25 **RESOLVED** that the minutes from the 4 June 2025 meeting be received and the recommendations contained therein be adopted.

(Councillors Rob/Dalton-Earls) (BP25/406)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Matters Arising

9.1 Questions on Notice

150/25 **RESOLVED** that the Questions on Notice responses provided in this report be noted.

(Councillors Bing/ Dalton-Earls) (BP25/395)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Councillor Bing left the meeting, the time being 10:30 AM

Reports of the General Manager

10.1 Proposed Acquisition of Part 25 Chelmsford Road, Rock Valley

151/25

RESOLVED that:

1. Council approves the acquisition of Part of Lot 2 in Deposited Plan 621526 being Part 25 Chelmsford Road, Rock Valley NSW by agreement
2. the landowner's costs associated with the acquisition be met by Council, including all survey costs, fencing, reasonable legal fees, valuation fees and plan registration fees
3. Council delegate authority to the General Manager to negotiate the terms of the acquisition and compensation and to execute all documents necessary to give effect to this resolution

(Councillors Gordon/Knight-Smith) (BP25/369)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Absent: Councillor Bing

10.2 Proposal to sell Council Land to the Lismore Model Flying Club

152/25

RESOLVED that:

1. Council resolve to sell part of 313 Wyrallah Road, Monaltrie (Lot 2 DP 1213261) as outlined in this report, Image 1, directly to the Lismore Model Flying Club for the sum of \$1 plus any costs associated with the sale/transfer of the land
2. the General Manager be delegated authority sign all related documents necessary to implement this resolution

(Councillors Hall/Battista) (BP25/371)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Councillor Guise

Absent: Councillor Bing

10.3 Proposed Grant of Easement for Footpath Access to East Lismore Community Preschool

153/25

RESOLVED that Council:

1. approves the granting of an easement for footpath access over Council-owned land at Wade Park, being Lot 1 in DP 568127 (161 Military Road, East Lismore), in favour of the owner or occupier of Lot 50 in DP 748966 (24 Colleen Place, East Lismore)
2. approves consideration for the granting of the easement to be a nominal amount of \$1.00 with the applicant to bear all costs associated with the creation and registration of the easement, including but not limited to survey, legal, lodgement, and administrative fees
3. delegate authority to the General Manager to negotiate the terms of the easement generally in accordance with the proposed terms set out in this report, and to execute all necessary documentation to register the easement with Land Registry Services

(Councillors Gordon/Rob) (BP25/387)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Absent: Councillor Bing

10.4 Outdoor Dining Fees Implementation Plan: Waiver and Gradual Reintroduction (2025–2028)

154/25

RESOLVED that Council waive Outdoor Dining licence fees for the 2025-2026 financial year.

(Councillors Rob/Knight-Smith) (BP25/363)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Absent: Councillor Bing

10.5 Investments - June 2025

155/25 **RESOLVED** that the report be received and noted.

(Councillors Gordon/Dalton-Earls) (BP25/445)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Hall, Jensen, Knight-Smith, Krieg and Rob
Voting against: Councillor Guise
Absent: Councillor Bing

10.6 ARIC Members - Terms

156/25 **RESOLVED** that Council define the expiration of ARIC terms as below:

1. Stephen Coates appointment as chair will expire on 11 December 2026
2. Andrew Macleod's appointment as a member will expire on 22 March 2029
3. Glenn Mullins' appointment as a member will expire on 8 November 2029

(Councillors Rob/Gordon) (BP25/424)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob
Voting against: Nil
Absent: Councillor Bing

10.7 Advisory Groups

157/25 **RESOLVED** that Council appoint:

1. Mark Ambrose to the Koala Advisory Group
2. Col Baker (Modanville/Dunoon) and Len Johnston (Richmond Hill/Lindendale) to the Lismore Villages Advisory Group
3. Hannah Wilson to the Aboriginal Advisory Group

(Councillors Rob/Dalton-Earls) (BP25/420)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob
Voting against: Nil
Absent: Councillor Bing

Councillor Jensen left the meeting, the time being 10:54AM

Councillor Dalton-Earls left the meeting, the time being 10:55AM

Notices of Motion / Questions with Notice

11.1 Policy Number 5.17.10

MOTION moved that Council rescind its decision of item 10.4 from the 3 June 2025 meeting.

(Councillors Guise/Knight-Smith)

Councillor Jensen returned to the meeting, the time being 10:56AM

Councillor Dalton-Earls returned to the meeting, the time being 10:57AM

158/25 **DEFEATED** that Council rescind its decision of item 10.4 from the 3 June 2025 meeting.

(Councillors Guise/Knight-Smith) (BP25/384)

Voting for: Councillors Dalton-Earls, Guise and Knight-Smith

Voting against: Councillors Battista, Gordon, Hall, Jensen, Krieg and Rob

Absent: Councillor Bing

Councillor Knight-Smith left the meeting, the time being 11:17AM

11.2 Mayoral Attendance Report

MOTION moved that Council receives the Mayoral Attendance Report for June 2025.

(Councillors Krieg/Gordon)

Councillor Knight-Smith returned to the meeting, the time being 11:19AM

159/25 **RESOLVED** that Council receives the Mayoral Attendance Report for June 2025.

(Councillors Krieg/Gordon) (BP25/419)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith and Krieg

Voting against: Councillor Rob
Absent: Councillor Bing

At this point Councillor Guise disclosed a non-pecuniary, non-significant conflict of interest for item 11.3 as a member of a rural landsharing community.

11.3 Rural Landsharing Community Development

160/25

RESOLVED that:

1. Council reviews planning provisions relating to Rural Landsharing Community development as part of the current Local Environment Plan and Development Control Plan reviews, with a view to removing these provisions
2. A workshop be arranged to discuss:
 - a. existing Rural Landsharing Community developments and approved housing limits
 - b. non-compliant Rural Landsharing Community developments
 - c. land property titles for Rural Landsharing Community developments

(Councillors Rob/Krieg) (BP25/441)

Voting for: Councillors Battista, Hall, Jensen, Krieg and Rob
Voting against: Councillors Dalton-Earls, Gordon, Guise and Knight-Smith
Absent: Councillor Bing

11.4 Naming of Oakes Oval grandstand

MOTION moved that the final grandstand at Oakes Oval be named in honour of Craig Foster AM.

(Councillors Krieg/Battista)

161/25

AMENDMENT moved and **DEFEATED** that:

1. the final grandstand at Oakes Oval be named in honour of Craig Foster AM
2. a suitable location be found to honour Frank Roberts, an Olympic boxer from Lismore

(Councillors Dalton-Earls/Knight-Smith) (BP25/440)

Voting for: Councillors Dalton-Earls, Guise and Knight-Smith
Voting against: Councillors Battista, Gordon, Hall, Jensen, Krieg and Rob

Absent: Councillor Bing

162/25 **RESOLVED** that the final grandstand at Oakes Oval be named in honour of Craig Foster AM.

(Councillors Krieg/Battista) (BP25/440)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Absent: Councillor Bing

11.5 RTRL Vacant Land & Administration Centre

MOTION moved that Council ask the Richmond Tweed Regional Library (RTRL) through its elected delegates to:

1. consider rescinding or changing resolution RTRL15/25 as soon as possible, to include an option to retain proceeds from the sale of the RTRL vacant land and/or administration centre to fund essential library projects and ICT upgrades
2. stop deferring a final decision, to advise Lismore City Council if the sale of the RTRL vacant land and/or administration centre to Lismore City Council will proceed and
3. that Council's position regarding any changes to the RTRL service model be deferred until after a further resolution of Council determining how Council will move forward
4. a workshop is held prior to the next RTRL meeting to assist councillors to determine how Council will move forward

(Councillors Rob/Knight-Smith)

Councillor Knight-Smith left the meeting, the time being 11:49AM

Councillor Knight-Smith returned to the meeting, the time being 11:49AM

MOTION moved that:

1. Council's position regarding any changes to the RTRL service model be deferred until after a further resolution of Council determining how Council will move forward
2. a workshop is held after the 9 July 2025 RTRL meeting to assist councillors to determine how Council will move forward

Motion withdrawn

11.6 Developer Offsets Policy

That Council prepare a Developer Offsets Policy.

Lapsed due to want of a mover.

Councillor Rob left the meeting, the time being 12:09PM

11.7 Roadside Spraying

Can the General Manager confirm whether hourly rates or fixed price contract kilometre rates are used to determine remuneration when paying contractors to undertake roadside spraying and, if kilometre rates are not used, explain why they are not used when they encourage greater time efficiency?

Acting General Manager's response:

Lismore City Council does not engage contractors for roadside spraying. This work, including the spraying of roadside furniture such as guard rails, guideposts, signposts, and culverts, is carried out by the Parks and Open Spaces team.

To improve efficiency and reduce operational costs, the Open Spaces department has recently purchased a new Rapid Spray unit. This single-operator system replaces the older Quik Spray unit, offering a more economical and time-efficient solution.

11.8 Traffic Controllers

Can the General Manager outline the specific legal requirements forcing council to use traffic controllers when undertaking work on public roads, and explain why work is often undertaken on public roads without using traffic controllers?

Acting General Manager's response:

In New South Wales, traffic control at worksites are regulated by the *Work Health and Safety (WHS) Act 2011* and the *WHS Regulation 2017*, with SafeWork NSW overseeing the training and licensing of traffic controllers. Council must ensure workers undertaking traffic control have the necessary training and hold a valid SafeWork NSW traffic control work training card.

Construction sites and roadwork projects often necessitate traffic controllers to manage traffic flow, especially where there are lane closures, speed reductions, or other disruptions. If there is a risk of vehicles or pedestrians colliding with plant equipment or structures, or if traffic flow is likely to be significantly disrupted, traffic controllers are essential.

Traffic controllers at work sites are not always required. For minor, short-term activities, when traffic is minimal, or in very remote areas, automated systems or temporary measures like signs and signals might be sufficient. Certain standard work activities and routine tasks on the road network not related to construction or maintenance may not require the full Traffic Control at Work Sites (TCAWS) manual. However, even in these cases, work health and safety requirements still apply.

A thorough risk assessment of the worksite, including the type of work, traffic volume, and proximity of traffic, is essential to determine appropriate traffic management measures.

11.9 Free Speech

Can the General Manager confirm whether Council's Social Media Policy aligns with the June 2025 DPHI Free Speech in Local Government in NSW guideline document and, if it doesn't, highlight the differences.

Acting General Manager's response:

Council's Social Media policy is based on the Model Code developed by the Office of Local Government (OLG) with minimal changes. The guideline on Free Speech in local government in NSW (guideline) was also developed by the OLG. The guideline provides guidance on how council media and social media policies should be applied.

There are a few areas of potential contradiction between the two however, these should be confirmed by the Office of Local Government. Officers are happy to refer to the OLG for clarification

Councillor Rob returned to the meeting, the time being 12:10PM

Altering Order of Business

163/25 **RESOLVED** that the order of business be altered to move item 12.2 Legal Matter: Monaltrie v Santin & Anor into open session.

(Councillors Guise/Knight-Smith)

Voting for: Councillors Dalton-Earls, Guise and Knight-Smith

Voting against: Councillors Battista, Gordon, Hall, Jensen, Krieg and Rob

Absent: Councillor Bing

Confidential Matters – Closed Council Meeting

164/25 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters;

Item	12.1 T2025-10 Unsealed Roads Maintenance
Grounds for Closure	Section 10A(2) (d i):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Item	12.2 Legal Matter: Monaltrie v Santin & Anor
Grounds for Closure	Section 10A(2) (e) (g):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: information that would, if disclosed, prejudice the maintenance of law; AND advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(Councillors Battista/Knight-Smith)

Voting for:	Councillors Battista, Dalton-Earls, Gordon, Hall, Jensen, Krieg and Rob
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Voting against:	Councillors Guise and Knight-Smith
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Absent:	Councillor Bing
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Resumption of Open Council

When the Council had resumed its former sitting, the Mayor reported that Council, meeting in Closed Session, had RESOLVED:

12.1 T2025-10 Unsealed Roads Maintenance

That:

1. in accordance with the *Local Government (General) Regulation 2021 – Part 7* Tendering, Council accepts the tender to form an un-ranked panel of approved providers from the following suppliers for Tender T562425RTC on a Schedule of Rates based contract:
 - a. HXR Construction Pty Ltd
 - b. CivilCS Pty Ltd
 - c. McNamara and Tierney Pty Ltd, trading as Kyogle Earthworx
 - d. Rugendyke and Bashforth Contracting Pty Ltd
 - e. Smith Plant Hire (NSW) Pty Ltd
 - f. The Trustee for the Stewart Family Trust trading as Tom Thumb Earthmoving
 - g. WF & SL Sullivan Pty Ltd trading as, Richmond Sand Gravel and Landscaping Lismore
 - h. P and C Roach Contracting and Plant Hire Pty Ltd
2. the panel be awarded for an initial period of three (3) years commencing on 9 July 2025, with an optional extension of one (1) year
3. Council delegates authority to the General Manager to:
 - a. finalise and execute the contract, execute the options to extend the contract when required, and any other documentation required to give effect to this resolution
 - b. approve purchases without a fixed upper limit of expenditure from approved budget source for Tender T2025-10 Supply of Unsealed Roads Maintenance

(Councillors Gordon/Jensen) (BP25/433)

Voting for: Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Absent: Councillor Bing

12.2 Legal Matter: Monaltrie v Santin & Anor

That Council not appeal the Court's decision on *Monaltrie Area Community Association Incorporated v Santin and Anor* [2025] NSWLEC 38.

(Councillors Knight-Smith/Dalton-Earls) (BP25/423)

Voting for: Councillors Battista, Dalton-Earls, Guise, Hall, Jensen, Knight-Smith and Krieg
Voting against: Councillors Bing, Gordon and Rob

Confidential Mayoral Minute

That:

1. Council makes an offer to the preferred applicant identified by the recruitment committee for the role of General Manager of Lismore City Council
2. Council delegates authority to the Mayor to negotiate the terms of the contract with the successful applicant, based on the parameters agreed by Council
3. should negotiations with the preferred applicant not be successful, Council delegate authority to the Mayor to negotiate the terms of the contract with the applicant identified as the second preferred applicant by the recruitment committee
4. the members of the Performance Review Committee work with LG Management Services to develop a performance agreement for the incoming General Manager

(Councillor Krieg)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob
Voting against: Nil

Closure

This concluded the business and the meeting terminated at 1.07pm.

CONFIRMED this > > 2025 at which meeting the signature herein was subscribed.

MAYOR

**MINUTES OF THE CONFIDENTIAL MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD
IN COUNCIL CHAMBERS ON TUESDAY 8 JULY 2025 AT 10.00AM**

Please note: These minutes are subject to confirmation at the next Council meeting. Decisions recorded in the draft minutes are subject to the Council's Code of Meeting Practice in relation to rescinding decisions.

Present

Mayor, Councillor Krieg; Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall (via audio-visual), Jensen, Knight-Smith, Rob together with Mr Butron, Acting General Manager; Mr Smith, Acting Chief Operating & Financial Officer; Mr Snow, Acting Chief Corporate & Community Officer; Mr Reinhold; Executive Planner; Ms Cotterill, Governance & Risk Manager and Mrs Mitchell, Executive Officer to the General Manager & Mayor and Councillors.

12.1 T2025-10 Unsealed Roads Maintenance

144/25

RESOLVED that:

1. in accordance with the *Local Government (General) Regulation 2021* – Part 7 Tendering, Council accepts the tender to form an un-ranked panel of approved providers from the following suppliers for Tender T562425RTC on a Schedule of Rates based contract:
 - a. HXR Construction Pty Ltd
 - b. CivilCS Pty Ltd
 - c. McNamara and Tierney Pty Ltd, trading as Kyogle Earthworx
 - d. Rugendyke and Bashforth Contracting Pty Ltd
 - e. Smith Plant Hire (NSW) Pty Ltd
 - f. The Trustee for the Stewart Family Trust trading as Tom Thumb Earthmoving
 - g. WF & SL Sullivan Pty Ltd trading as, Richmond Sand Gravel and Landscaping Lismore
 - h. P and C Roach Contracting and Plant Hire Pty Ltd
2. the panel be awarded for an initial period of three (3) years commencing on 9 July 2025, with an optional extension of one (1) year
3. Council delegates authority to the General Manager to:
 - a. finalise and execute the contract, execute the options to extend the contract when required, and any other documentation required to give effect to this resolution
 - b. approve purchases without a fixed upper limit of expenditure from approved budget source for Tender T2025-10 Supply of Unsealed Roads Maintenance

(Councillors Gordon/Jensen) (BP25/433)

Voting for:	Councillors Battista, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob
Voting against:	Nil
Absent:	Councillor Bing

12.2 Legal Matter: Monaltrie v Santin & Anor

MOTION moved that Council not appeal the Court's decision on *Monaltrie Area Community Association Incorporated v Santin and Anor* [2025] NSWLEC 38.

(Councillors Knight-Smith/Dalton-Earls)

Councillor Bing returned to the meeting, the time being 12:20PM

FORESHADOWED MOTION moved that Council appeal the Court's decision on *Monaltrie Area Community Association Incorporated v Santin and Anor* [2025] NSWLEC 38.

(Councillor Rob)

145/25 **RESOLVED** that Council not appeal the Court's decision on *Monaltrie Area Community Association Incorporated v Santin and Anor* [2025] NSWLEC 38.

(Councillors Knight-Smith/Dalton-Earls) (BP25/423)

Voting for:	Councillors Battista, Dalton-Earls, Guise, Hall, Jensen, Knight-Smith and Krieg
Voting against:	Councillors Bing, Gordon and Rob

The Acting General Manager; Acting Chief Operating & Financial Officer and Acting Chief Corporate & Community Officer left the meeting, the time being 12.39pm.

Confidential Mayoral Minutes

146/25

RESOLVED that:

1. Council makes an offer to the preferred applicant identified by the recruitment committee for the role of General Manager of Lismore City Council
2. Council delegates authority to the Mayor to negotiate the terms of the contract with the successful applicant, based on the parameters agreed by Council
3. should negotiations with the preferred applicant not be successful, Council delegate authority to the Mayor to negotiate the terms of the contract with the applicant identified as the second preferred applicant by the recruitment committee
4. the members of the Performance Review Committee work with LG Management Services to develop a performance agreement for the incoming General Manager

(Councillor Krieg)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Resumption of Open Council

147/25

RESOLVED that Council reopen the doors to the public and return to open session.

(Councillors Bing/Battista)

Voting for: Councillors Battista, Bing, Dalton-Earls, Gordon, Guise, Hall, Jensen, Knight-Smith, Krieg and Rob

Voting against: Nil

Closure

This concluded the business and the meeting terminated at 1.02pm.

CONFIRMED this > > 2025 at which meeting the signature herein was subscribed.

MAYOR