



ORDINARY COUNCIL MEETING

Wednesday 19 October, 2022

at 9:15am

Council Chambers, 56 Chanter Street, Berrigan



Agenda

Our Vision

In 2032 we will be recognised as a Shire that builds on and promotes our natural assets and advantages to create employment and economic activity to attract residents, families and tourists.

COMMUNITY STRATEGIC PLAN

Berrigan Shire Council's Community Strategic Plan Berrigan Shire 2032 is a common framework for measuring the achievement of Berrigan Shire 2032 strategic outcomes of:

1. Sustainable natural and built landscapes
2. Good government
3. Supported and engaged communities
4. Diverse and resilient business

The Community Strategic Plan can be found here:

<https://www.berriganshire.nsw.gov.au/council-governance/management-plans-codes-reports>

RISK MANAGEMENT POLICY & FRAMEWORK

Berrigan Shire Council is committed to managing its risks strategically and systematically in order to benefit the community and manage the adverse effects to Council.

Risk Management is everyone's responsibility. It is an activity that begins at the highest level and is applied consistently through all levels of Council. All workers are required to integrate risk management procedures and practices into their daily activities and must be competent and accountable for adequately managing risk within their area of responsibility.

The Risk Management Policy & Framework can be found here:

[https://www.berriganshire.nsw.gov.au/files/australiaday/Policy_No_17 -
_Risk_Management_Policy_and_Framework_-_20072022.pdf](https://www.berriganshire.nsw.gov.au/files/australiaday/Policy_No_17_-_Risk_Management_Policy_and_Framework_-_20072022.pdf)



Ordinary Council Meeting
Wednesday 19 October, 2022

BUSINESS PAPER

The Ordinary Council Meeting of the Shire of Berrigan will be held in the Council Chambers, 56 Chanter Street, Berrigan, on Wednesday 19 October, 2022 when the following business will be considered:-

ITEMS OF BUSINESS


1	OPENING OF MEETING	6
2	ACKNOWLEDGEMENT OF COUNTRY	6
3	APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE OR ATTENDANCE VIA AUDIO-VISUAL LINK BY COUNCILLORS.....	6
3.1	Apologies/Leave of Absence	6
3.2	Applications for Leave of Absence	6
3.3	Attendance Via Audio-Visual Link	6
4	CONFIRMATION OF PREVIOUS MINUTES	7
5	DISCLOSURES OF INTERESTS.....	7
6	MAYORAL MINUTE(S).....	7
	Nil	
7	REPORTS OF COMMITTEES.....	7
	Nil	
8	REPORTS TO COUNCIL.....	8
8.1	Sponsorship of the PGA Associates at Tocumwal	8
8.2	2023 Berrigan Shire Business Awards	12
8.3	Finance - Accounts	14
8.4	Position paper - Rural Fire Service assets (Late Covering Report).....	19
8.5	2022-23 Fees and Charges - Public Swimming Pools	20
8.6	Tocumwal Historic Aerodrome Museum	25
8.7	Convert Tocumwal Landfill and Transfer Station to only Transfer Station.....	30

8.8	T06-22-23 Demolition and Construction of Barooga Recreational Reserve- Netball Courts	33
8.9	T04-22-23 Inistu Pavement Stabilisation	38
8.10	T05-22-23 Cut Back Bitumen for 2022_2023 year	40
8.11	Special Request for Interment of Ashes - Finley Cemetery	42
8.12	Corporate Workshop Outcomes	48
8.13	Discrimination, Bullying, Harassment and Workplace Violence Policy	54
8.14	Access to Council Information Policy	75
8.15	Internal Reporting and Protected Disclosures Policy	84
8.16	Social Media Policy - Request for Minor Change	109
8.17	Tocumwal - Town Beach Caretaker.....	116
8.18	StateCover Report on Berrigan Shire Council	120
8.19	Development Application 166-22-DA-D5 – Residential Storage Shed – 4 Murray Grove Barooga.....	123
8.20	Development Application 18-23-DA-D1 - Single Dwelling with Attached Garage and Swimming Pool	129
8.21	Development Application 151-22-DA-D5 – Storage Shed and Additions to an Existing Alfresco	135
8.22	Council Action List Report	148
8.23	Pecuniary Interest Disclosure 2021-2022	149
8.24	Development Determinations for Month of September 2022	151
8.25	Urban centre populations - 2021 census	155
8.26	Regional Banking Taskforce Report.....	156
8.27	2023-24 Rate Peg.....	157
8.28	Local Government NSW - Annual Report.....	159
8.29	Finley Lake Reserve Masterplan.....	160
8.30	Briefing - Finley Health Service Redevelopment	161
8.31	Citizenship Ceremony	162
9	NOTICES OF MOTION/QUESTIONS WITH NOTICE.....	163
	Nil	
10	CONFIDENTIAL MATTERS.....	163
	Nil	
11	MOTIONS WITHOUT NOTICE / QUESTIONS WITHOUT NOTICE	163
12	COUNCILLOR REPORTS	163
12.1	Mayor’s Report	163

12.2 Verbal Reports from Delegates 163

13 CONCLUSION OF MEETING..... 163

No business, other than that on the Agenda, may be dealt with at this meeting unless admitted by the Mayor.



KARINA EWER
CHIEF EXECUTIVE OFFICER

1 OPENING OF MEETING

In the spirit of open, accessible and transparent government, Berrigan Shire Council's meetings are audio recorded. By speaking at a Council Meeting, members of the public agree to being recorded. Berrigan Shire Council accepts no liability for any defamatory, discriminatory or offensive remarks or gestures that are made during the course of the Council Meeting. Opinions expressed or statements made by individuals are the opinions or statements of those individuals and do not imply any form of endorsement by Berrigan Shire Council.

Confidential matters of Council will not be audio recorded.

Recordings are protected by copyright and owned by Berrigan Shire Council. No part may be copied, recorded, reproduced or transmitted without the prior written consent of the Chief Executive Officer. Any recording is not, and shall not, be taken to be an official record of Berrigan Shire Council meetings or the discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting.

An audio recording of the Council Meeting will be taken for administrative and minute preparation purposes only and is provided to the public for listening purposes to support Council's statutory obligations.

2 ACKNOWLEDGEMENT OF COUNTRY

"We acknowledge the original inhabitants whose country we are gathered on, and we pay respect to the elders, past, present, and future and extend respect to all first nations people."

3 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE OR ATTENDANCE VIA AUDIO-VISUAL LINK BY COUNCILLORS

3.1 Apologies/Leave of Absence

Cr Sarah McNaught is on leave of absence from 16 October to 28 October

3.2 Applications for Leave of Absence

3.3 Attendance Via Audio-Visual Link

Nil

4 CONFIRMATION OF PREVIOUS MINUTES

Recommendation: That the minutes of the Ordinary Council Meeting held in the Council Chambers Wednesday 21 September, 2022 be confirmed.

5 DISCLOSURES OF INTERESTS

6 MAYORAL MINUTE(S)

Nil

7 REPORTS OF COMMITTEES

Nil

8 REPORTS TO COUNCIL

8.1 Sponsorship of the PGA Associates at Tocumwal

Author:	Manager Economic Development & Tourism, Merran Socha
Strategic Outcome:	4. Diverse and resilient business
Strategic Objective:	4.1. Strengthen and diversify the local economy and invest in local job creation and innovation
Delivery Program:	4.1.2. Support local enterprise through local economic and industry development initiatives and projects
Council's Role:	Strategic Partner: The Council partners with other agencies, stakeholders, community groups etc in the deliver of a Council provided service or activity that aligns with Councils Strategic outcomes or Delivery Program.
Appendices:	Nil

Recommendation

That Council enter into a five year agreement with the PGA to sponsor the Associates Championship at Tocumwal at a cost of \$10,000 per annum

Report

Berrigan Shire Council has sponsored the PGA Associates (Trainees) Championship at Tocumwal for 6 years. For the first 3 years, the PGA made an annual application, and the last 3 years were done under a term agreement. The annual funding has been \$7,500.

The tournament is held in mid-May and brings approximately 150 trainees and support staff to Tocumwal for a week. In the early years, the trainees were billeted to golf club members and local families however, since 2016 they have stayed in commercial accommodation. The trainees play in a ProAm prior to the tournament and Berrigan Shire Council has always fielded a team for this event.

In recent years the PGA has developed a program for the local schools which is a positive addition to the whole program. Youth interest and participation in golf is important for the region as the sustainability of all the golf clubs is dependent on continued interest in the game. From an economic development perspective, this program has long-term strategic implications that are important to the Council.

Council has a current signed MOU with Tocumwal Golf and Bowls, with the Scope of that document including a commitment to “work(ing) collaboratively to – develop four our you’re a collaborative approach to education, training, employment and wellbeing opportunities through the use of available facilities and programs.” One of the primary objectives of that MOU is to “implement youth health and wellbeing initiatives to encourage participation is sport and social services.”

Luke Bower, Membership Manager for the PGA attended the October Strategic & Policy Workshop to brief the Council on the past events, and how they see the future relationship with Berrigan Shire Council. The PGA s indicated a desire:

- to increase the schools and youth participation program
- to continue the sponsorship and increase the funding amount to \$10,000.
- To enter into a 5-year agreement with the Council to bring our agreement in line with the agreement they have with Tocumwal Golf and Bowls Club.

The funding would be allocated from the current Major Event Fund.

The following economic impact assessment is provided by Economy id and models the impact of 200 people spending \$150 a day for five days. I would consider this to be a conservative assessment considering the current cost of accommodation.

Berrigan Shire

Event impact calculator

Events are very important contributors to local and regional economies. A successful well run event can provide significant value to an area by adding jobs and money to the local economy and providing additional cultural and social benefits. Alternatively, the wrong event may have considerable negative impacts such as a loss of money or reputation.

The event impact calculator has been developed to enable Berrigan Shire to calculate the potential economic impact of a proposed event. This can be used in conjunction with other methods to help Berrigan Shire select the most appropriate events to support. This calculator alone cannot predict which events will be successful, however it can indicate the potential economic impact a successful event may have across a range of economic measures such as output, employment, wages and salaries and local jobs.

This tool uses input/output estimates to calculate the impact of an event based on the average spend per day by visitors to the event. Simply enter the type of event, the significance of the event, the duration of the event and the average spend per day to calculate the potential economic impact.

As events can also contribute to an area in other ways, such as socially, culturally and environmentally, it is important that other tools or methods are also used to evaluate the potential or benefit of an event.

The proposed ~~PGA Associates~~ Championships event is planned to run for 5 days. It is an event of State significance and is estimated to attract 200 visitors per day over the 5 days, with an average spend per person per day of \$150. This equals a total visitor spend of \$150,000 attributed to this event. Assuming the event will be held in Berrigan Shire, it is calculated to have the following potential impact:

Event Impact Summary

Berrigan Shire - Modelling the effect of \$150,000 from a Sports and Recreation Activities event with State significance

	Output (\$)	Value-added (\$)	Local Jobs (annual jobs)
Direct impact	120,000	56,374	1.0
Industrial impact	39,492	12,603	0.1
Consumption impact	9,439	3,906	0.1
Total impact on Berrigan Shire economy	168,932	72,882	1

Source: National Institute of Economic and Industry Research (NIEIR) ©2021. Compiled and presented in economy.id by .id (informed decisions).

Impact on Output

The total visitor spend of \$150k attributed to staging the PGA Associates Championships event would lead to a direct impact on output of \$120k. This additional direct output from the economy

would also lead to an increase in indirect demand for intermediate goods and services across related industry sectors. These indirect industrial impacts (Type 1) are estimated to be an additional \$39k in Output.

There would be an additional contribution to Berrigan Shire economy through consumption effects as correspondingly more wages and salaries are spent in the local economy. It is estimated that this would result in a further increase in Output of \$9,439.43.

The combination of all direct, industrial and consumption effects would result in total estimated rise in Output of \$169k in Berrigan Shire economy.

Impact on value-added and GRP

The impact of an additional of \$150k spend to the local economy as a result of running the PGA Associates Championships event in Berrigan Shire would lead to a corresponding direct increase in value added of \$56k. A further \$13k in value added would be generated from related intermediate industries.

There would be an additional contribution to Berrigan Shire economy through consumption effects as correspondingly more wages and salaries are spent in the local economy. It is estimated that this would result in a further increase in value added of \$3,905.80.

The combination of all direct, industrial and consumption effects would result in an estimated addition in value added of \$73k in Berrigan Shire economy.

Value added by industry represents the industry component of Gross Regional Product (GRP). The impact on Berrigan Shire's GRP as a result of staging this event is directly equivalent to the change in value added outlined above.

In summary, GRP in Berrigan Shire is estimated to increase by \$73k.

Impact on Employment (local jobs, 12mth equivalent)

The employment impact of an event is expressed in local jobs. For example, an event that generates 4 weeks of work for 13 people (52 weeks of work in total), would have an employment impact equivalent to 1.0 annual local jobs.

The direct addition of \$150k spend to the local economy as a result of staging the PGA Associates Championships event in Berrigan Shire is estimated to lead to a corresponding direct increase of employment equivalent to 1.0 annual local jobs across a range of industries. From this direct expansion in the economy, it is anticipated that there would be flow on effects into other related intermediate industries, creating an additional employment equivalent to 0.1 annual local jobs.

This addition of employment in the local economy would lead to a corresponding increase in wages and salaries, a proportion of which would be spent on local goods and services, creating a further increase equivalent to 0.1 annual local jobs through consumption impacts.

The combination of all direct, industrial and consumption effects would result in a total estimated increase of employment equivalent to 1.1 annual local jobs located in Berrigan Shire.

8.2 2023 Berrigan Shire Business Awards

Author:	Manager Economic Development & Tourism, Merran Socha
Strategic Outcome:	4. Diverse and resilient business
Strategic Objective:	4.1. Strengthen and diversify the local economy and invest in local job creation and innovation
Delivery Program:	4.1.2. Support local enterprise through local economic and industry development initiatives and projects
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	Nil

Recommendation

That the 2023 Business Awards proceed in the current format

Report

Berrigan Shire Council holds business awards every other year and the process is due to start in November 2022, culminating in an award ceremony in April 2023.

BSC commenced the Business Awards in 2000, holding them annually. In 2013 the process was brought in line with the Riverina Chamber of Commerce Awards with the BSC winners being recognised automatically as finalists at the regional event. It was always difficult to get businesses involved in the awards as most people were uncomfortable with self-nomination and did not see great value in completing a nomination if they were nominated by a third party. In 2017 the Business Awards were cancelled because of low numbers.

Consultation was undertaken with the business community following the 2017 cancellation and the feedback was consistent.

- Over 17 years, 650 local businesses had taken some part in the BSC Business Awards and they did not want to be seen as serial award participants.
- The value proposition was not a motivation to participate.
- The Awards process was not transparent and was seen as the Council picking winners.
- Every year was too much

In response to the research, a new program was developed. The business awards now run under two specific themes and the community is invited to nominate businesses that they believe fit into one of the themes. The person submitting the nomination is encouraged to describe the business and the reason they believe they are worthy of consideration. The application provides a 500 word limited to summarise the quality of the business being nominated.

Once nominations close the businesses are given an opportunity to:

1. Accept or decline the nomination; or
2. Edit the nomination.

A judging panel is appointed with a local person asked to chair to the panel. The three other panel members are external. The judging panel is asked to assess the written submission and to select up to 12 businesses to progress to the interview stage. This group are asked to attend a judging day and are given the opportunity to make a 20 minute presentation to the judges. The judges then select between 6 and 8 finalists and at this stage will also nominate their theme winners. The finalists “win” the opportunity to have a short video made to promote their business. This is organised and paid for by BSC and in the past 2 years has proven to be a capacity building exercise for those who have participated. The videos are launched on the presentation night and the winners are announced.

There is also a category that is voted on by the community known as the *People’s Choice award for Excellence in Customer Service*. This is a popular/fun category that draws in extra participation and, in 2023, we will need to include a new category to recognise a regional business as part of our MOU with Federation Council and Moira and Indigo Shire Councils.

The purpose of this report is to explain the process to new Councillors. Themes used previously include:

- What’s new in Berrigan Shire
- Made in Berrigan Shire
- Excellence in Innovation, Resilience or Growth
- Excellence in online and shopfront integration.

The categories suggested for the 2023 awards include:

- What’s new in Berrigan Shire
- Young Entrepreneur (under 35)
- Regional business from Moira, Federation or Indigo Shires that supports or assists a business in Berrigan Shire
- People’s Choice Award for Excellence in customer service.

8.3 Finance - Accounts

Author:	Finance Manager, Tahlia Fry
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	1. Berrigan_Monthly Investment Review_September 2022.pdf (under separate cover)

Recommendation: that the Council:

- a) Receive the Financial Statement, Bank Reconciliation Certificate and Petty Cash Book made up to 30 September 2022,
- b) Confirm the accounts paid as per Warrant No. 09/22 totaling \$10,527,179.50 and
- c) Note the report on investments attached

Purpose

This report is designed to inform Council of its cash and investments as at 30 September 2022 and for Council to authorise expenditure for the month ending 31 August 2022.

Report:

- a) A Financial Statement covering all funds of the Council indicating the Bank Balances as at 30 September 2022 is certified by the Finance Manager.
- b) The Finance Manager certifies that the Cash Book of the Council was reconciled with the Bank Statements as at 30 September 2022.
- c) The Finance Manager certifies the Accounts, including the Petty Cash Book made up to 31 August 2022, totaling \$10,527,179.50 and will be submitted for confirmation of payment as per Warrant No. 09/22
- d) The Finance Manager certifies that all Investments have been placed in accordance with:
 - i. [Council's Investment Policy](#),
 - ii. [Section 625 of the Local Government Act 1993 \(as amended\)](#),
 - iii. [the Minister's Amended Investment Order gazetted 11 January 2011](#),

- iv. [clause 212 of the Local Government \(General\) Regulations 2021](#), and
- v. Third Party Investment requirements of the Office of Local Government Circular 06-70
- e) September has seen an increase in total funds compared to last month due the receipt of grant funding for the Water Treatment Plant Project. Overall Funds have increased by \$1.74M from the same period last year.

Statement of Bank Balances as at 30 SEPTEMBER 2022

Bank Account Reconciliation

<i>Cash book balance as at 31 SEPTEMBER 2022</i>	\$18,691,500.56
Receipts for SEPTEMBER 2022	\$ 3,450,985.36
Term Deposits Credited Back	\$ 4,000,000.00
	<u>\$26,142,485.92</u>
<i>Less Payments Statement No 09/22</i>	
Bank Transfers	\$ -
Electronic Funds Transfer (EFT) payroll	\$ 615,590.33
Electronic Funds Transfer (EFT) Creditors E040613-E040839	\$ 1,842,097.46
Term Deposits Invested	\$ 8,000,000.00
Loan repayments, bank charges, etc	\$ 69,491.71
Total Payments for SEPTEMBER 2022	<u>\$10,527,179.50</u>
Cash Book Balance as at 30 SEPTEMBER 2022	<u>\$15,615,306.42</u>
<i>Bank Statements as at 30 SEPTEMBER 2022</i>	\$15,613,163.55
Plus Outstanding Deposits	\$ 2,142.87
Less Outstanding Cheques/Payments	\$ -
Reconciliation Balance as at 30 SEPTEMBER 2022	<u>\$15,615,306.42</u>

INVESTMENT REGISTER

INSTITUTION	FUND	DEPOSIT NO.	TERM (days)	RATE	MATURITY DATE	INSTITUTION TOTAL	S&P RATING
AMP	WATER	136/18	365	**0.80%	19/10/2022	\$ 2,000,000.00	BBB+
AMP	SEWER	144/19	365	**1.25%	23/03/2023	\$ 2,000,000.00	BBB+
AMP	GENERAL	133/17	365	**2.90%	23/05/2023	\$ 1,000,000.00	BBB+
AMP	GENERAL	125/16	365	**2.90%	31/05/2023	\$ 2,000,000.00	BBB+
AMP	GENERAL	149/23	729	**4.95%	27/09/2024	\$ 2,000,000.00	BBB+
Bank Of Queensland	GENERAL	147/22	365	3.15%	29/05/2023	\$ 2,000,000.00	BBB+
Bendigo Bank	WATER	142/18	365	*2.50%	26/09/2023	\$ 2,000,000.00	BBB+
Bendigo Bank	GENERAL	146/20	365	*2.50%	28/09/2023	\$ 5,054,653.00	BBB+
Defence Bank Limited	WATER	138/18	365	0.70%	10/01/2023	\$ 2,000,000.00	BBB
NAB	WATER	143/18	365	0.50%	18/11/2022	\$ 2,000,000.00	AA-
NAB	SEWER	151/23	214	4.20%	1/05/2023	\$ 2,000,000.00	AA-
NAB	WATER	148/23	365	4.50%	28/09/2023	\$ 2,000,000.00	AA-
WESTPAC	GENERAL	150/23	365	4.55%	29/09/2023	\$ 2,000,000.00	AA-
						<u>\$ 28,054,653.00</u>	

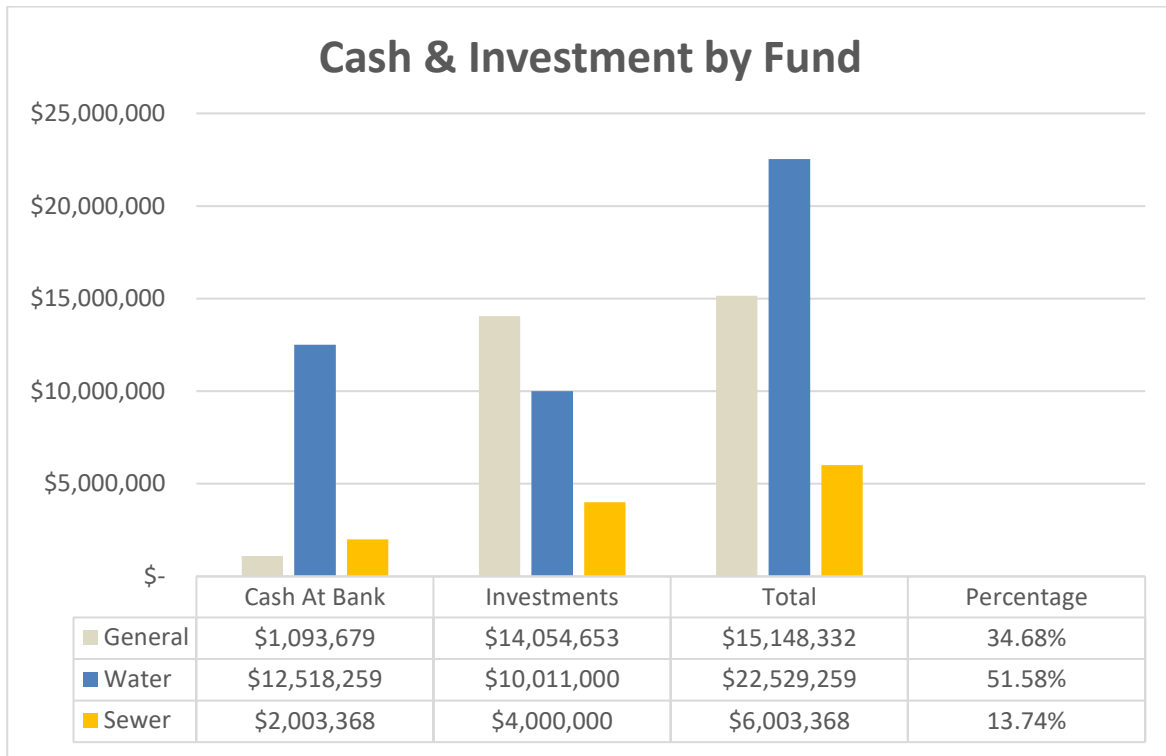
Total Funds Held at 30 SEPTEMBER 2022

\$43,669,959.42

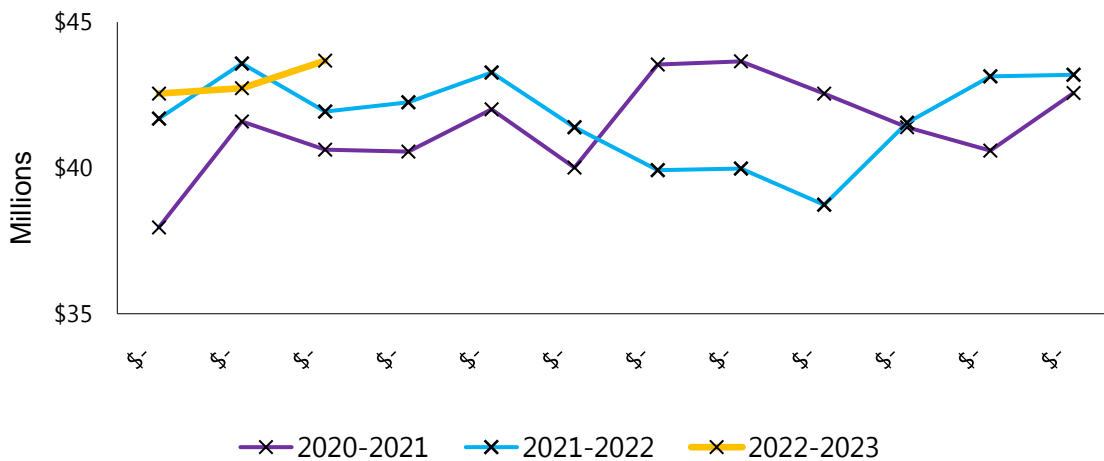
Tahlia Fry - Finance Manager

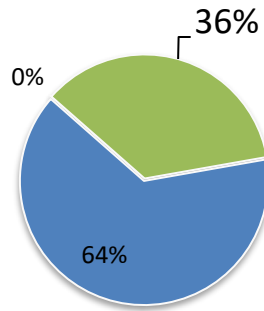
*The Council also receives an additional 0.25% commission
**The Council also receives an additional 0.20% commission

Total Funds held between General, Water and Sewer are as follows:

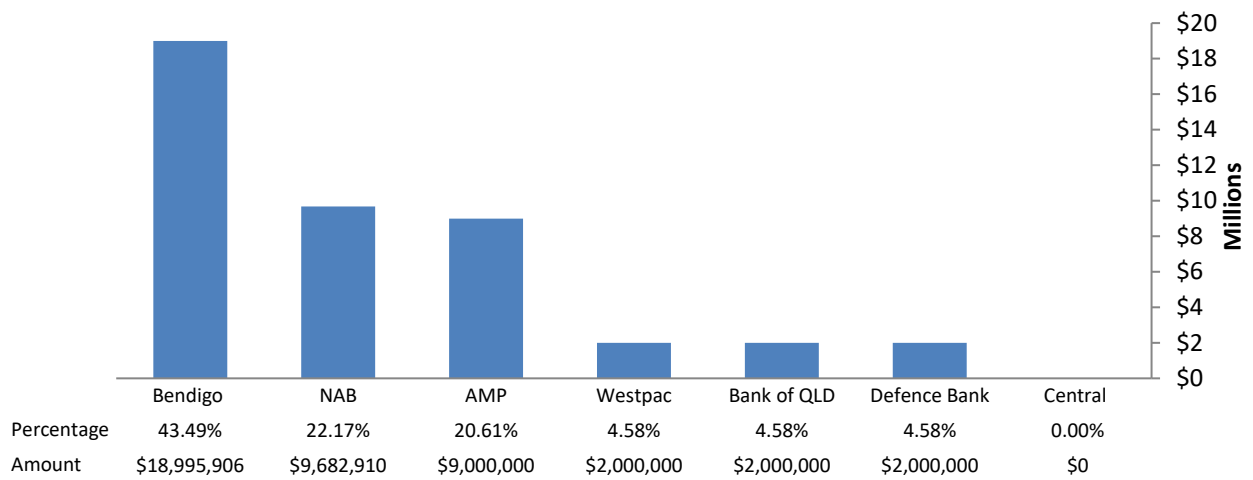


Total Cash and Investments





■ Term Deposits ■ At Call T-Corp ■ Cash at Bank



Term Deposits Credited Back

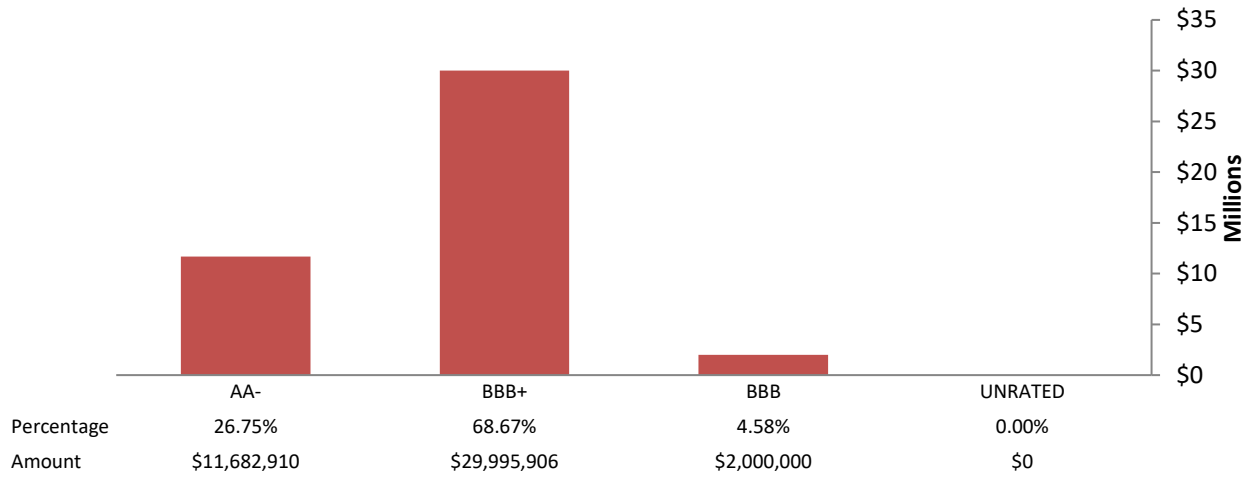
Prior Financial Institution	Term (Days)	Amount	Interest Rate	Maturity Date
DEFENCE BANK LTD	365	\$ 2,000,000.00	0.30%	31/08/2022

Term Deposits Invested / Reinvested

Current Financial Institution	Term (Days)	Amount	Interest Rate	Maturity Date
NIL CHANGES				

*The Council also receives an additional 0.25% commission

**The Council also receives an additional 0.20% commission



8.4 Position paper - Rural Fire Service assets (Late Covering Report)

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	2. Good government
Strategic Objective:	2. Good government 2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting 2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council

Report not available at time of publishing the agenda, but will be provided prior to the meeting.

8.5 2022-23 Fees and Charges - Public Swimming Pools

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	3. Supported and engaged communities
Strategic Objective:	3.2. Support community engagements through life-long learning, culture and recreation
Delivery Program:	3.2.1. Provide opportunities for life-long learning, culture expression and recreation
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	Nil

Recommendation

That the Council, noting that no submissions were received from the public during the statutory exhibition period under s610F of the *Local Government Act 1993*, adopt the following fees and charges for use of the Berrigan Shire Public Swimming Pools:

Category	Charge (incl. GST)
Finley and Tocumwal	
Season Ticket - Family	\$190.00
Season Ticket - Single	\$100.00
Daily entry – Family	\$20.00
Daily entry – Full (including school swimming)	\$5.00
Daily entry – Child/Concession (excluding school swimming)	\$3.00
Daily entry – Children 0-2	Free
Daily entry – Non-swimmer	Free
Berrigan	
Season Ticket	Free (funded by donation)
Daily entry	Free (funded by donation)
Fitness swimming – Season - Full	\$150.00
Fitness swimming – Season – Child/Concession	\$100.00
Fitness swimming – Casual	\$5.00

Purpose

This report is to adopt fees and charges for the 2022-23 season for the Berrigan Shire Public Swimming Pools

Summary

At its ordinary meeting on Wednesday, 21 September 2022, the Council adopted a set of draft fees and charges for the 2022/23 season for Berrigan Shire Public Swimming Pools.

These fees were placed on public exhibition for 28 days as per s610F of the *Local Government Act 1993* and public submissions sought.

At the time of writing, no submissions were received from the public and these fees may be adopted

Background

Berrigan Shire Council operates three public swimming pools, at Berrigan, Finley and Tocumwal.

Care, control and management of each pool is delegated to volunteer committees of management established under the *Local Government Act 1993*. Delegation includes the setting of fees and charges.

The *Local Government Act 1993* (the Act) requires all Council fees and charges to be included and adopted in the Council's annual Operational Plan. In previous years, the Operational Plan did not include an amount for these fees – instead simply noting it had delegated this power to the volunteer committees.

While there is a case to be made this is consistent with the letter of the Act, it is not consistent with its spirit – which is to make the fee setting process transparent.

To this end, the Council revised its User Fees and Charges Policy to include a requirement to place fees set by its volunteer committees of management in its Operational Plan. Fees administered by Volunteer Committees will take effect from 2023/24. Council staff are working with the volunteer committees on its implementation.

However, as the volunteer pool committees have proposed changes to their fees and charges for the 2022/23 season, the Council has needed to specifically adopt these fees and charges via resolution.

Going forward, all volunteer committee fees and charges will be included in the Operational Plan, so this process will not be necessary in the future.

Finley and Tocumwal share a fee structure and common membership – i.e., a Tocumwal season ticket provides entry to Finley pool and vice-versa.

Berrigan does not charge for general admission to the pool – instead the pool committee solicit donations from community groups and the public to cover this cost. Berrigan will charge for “fitness swimming access” outside standard operating hours

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Council's fees and charges are included in the Council's Operational Plan, which is required to be exhibited for 28 days before adoption.

The current Operational Plan does not include these charges, hence the requirement for exhibition in this case.

Issues and Implications

Policy

The Council's adopted **User Fees and Charges Policy** states:

The Council has delegated care, control, and management of some of its facilities such as Recreation Reserves, Swimming Pools and Public Halls to volunteer committees of management established under the provisions of s355 of the Local Government Act 1993.

Where committee setting fees for use of their facilities (such as entry fees for a swimming pool or hourly rates to hire a public hall) then those committees are expected to follow the fee setting model established in this policy, including being guided by the general principle of full cost recovery where possible and the other specific fee setting principles where appropriate.

Fees for activities such as camping that may be subject to relevant legislation must also be negotiated with Council staff prior to implementation.

Delegating the authority to set fees and charges to a volunteer committee does not abrogate the Council's obligation to provide public notice of these fees and consider public submissions as per s610F of the Local Government Act 1993. Council will work with its committees of management to ensure all fees and charges set by its volunteer committees meet this statutory obligation.

Financial

Fees and charges raised by the volunteer committees of management are retained by those committees to complement the subsidy provided to the Council for the operation of their facility.

Legal / Statutory

Section 610F of the Local Government Act 1993 states:

(1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.

(2) Public notice of the amount of a proposed fee must be given (in accordance with the regulations) in the draft operational plan for the year in which the fee is to be made.

(3) However, if, after the date on which the operational plan commences--

(a) a new service is provided, or the nature or extent of an existing service is changed, or

(b) the regulations in accordance with which the fee is determined are amended,

the council must give public notice (in accordance with [section 705](#)) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.

The Council has now met this obligation.

Community Engagement / Communication

The draft public pool fees and charges were placed on public exhibition for 28 days. This included posting on the Council’s website and providing notice via social media.

At the time of preparing this report, no public submissions were received.

The Finley War Memorial Swimming Pool Committee of Management responded to inform Council that students who do not have a season ticket using the pool for school swimming are charged the full daily entrance fee. The fee schedule has been revised to reflect this.

Human Resources / Industrial Relations (If applicable)

N/A

Risks

1. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Fees and charges raised by volunteer committees of management are not materially significant to the Council however they do impact on the viability of specific services

2. Reputational

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The community expects fees for community services to be set in a consistent and transparent manner.

Options

1. Adopt the fees and charges in this report - **recommended**
2. Modify the fees and charges provided in this report – this is likely to generate some pushback from the volunteer committees of management and the public.



3. Defer any decision on fees to a later meeting. This may mean that new fees will not be in place before the start of the pool season
-

8.6 Tocumwal Historic Aerodrome Museum

Author:	Recreation Officer, Emma McQueen
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Asset Owner: As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
Appendices:	1. 27.09.2022 Windup Tham Section 355 Committee ref. your email 18 Aug.2022.email ↓

Recommendation

That Council:

1. dissolve the Tocumwal Historic Aviation Museum Committee of Management.
2. negotiate an agreement with the Tocumwal Historic Aerodrome Museum for the continued custody of the Tocumwal Historic Aerodrome collection.
3. invite the current members of the Tocumwal Historic Aerodrome Museum to a function at Tocumwal Aviation Museum to celebrate their achievements as a volunteer committee of the Council.

Purpose

The purpose of this report is to formalise the winding-up of the Tocumwal Historic Aerodrome Museum (THAM) and to formalise custody of the museum collection and the remaining funds held.

Summary

In summary, the Tocumwal Aerodrome Museum has voluntarily ceased operations. The Council needs to formally dissolve the Committee and the management of the collection and remaining funds.

The Council may wish to formally recognise the efforts of the Committee since 1995.

Background

Tocumwal Historic Aerodrome Museum is a Section 355 Committee of Council established under the local Government Act 1993. The Committee was never provided with a formal delegation from

Council. However, in effect they have had care, control and management of the Tocumwal Historic Aviation Museum collection and the funds generated as a result of its exhibition.

In September 2022 the Committee held its Annual General Meeting and resolved to voluntarily cease operations.

The Committee have existed since 1995 and became a Council Committee in 1998. In that time the Committee has done a wonderful job in growing and preserving the history of the Tocumwal Aerodrome and raising money for a permanent home for the museum collection.

The construction of the new Tocumwal Aviation Museum has been the combination of the work of this Committee, and they now feel they have achieved their mission and can now retire.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

The Tocumwal Aviation Museum has been part of Council's long-term plan with the name of taking over the reins since 1998.

Issues and Implications

Policy

The Council doesn't have a policy regarding its heritage collections. However, Tocumwal Aviation Museum has developed a suitable policy.

Financial

The Committee at its final meeting resolved to transfer \$19,360.53 to the Tocumwal Aviation Museum. The Council will need to formalise this transfer of funds. In effect is contribution from the Council towards the perpetual maintenance of the THAM collection.

Legal / Statutory

The THAM collection is owned by Berrigan Shire Council in trust for the community. Council will need to negotiate a suitable custody arrangement with Tocumwal Aviation Museum.

Community Engagement / Communication

Council staff believe it is necessary to invite the current members of the Tocumwal Historic Aerodrome Museum to a function at Tocumwal Aviation Museum to celebrate their achievements as a volunteer committee of the Council.

Human Resources / Industrial Relations (If applicable)

N/A

Risks

1. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Council can mitigate the risk of any financial loss by entering into a formal custody agreement for the collection.

2. Reputational

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

There is a risk that something may happen to the collection, but a formal custody agreement should assist.

Options

The Committee has voluntarily ceased operations. The Council could, if it chose, gift ownership of the collection to Tocumwal Aviation Museum. This is not recommended because the assets are held in trust for the community.

Conclusions

Firstly, upon request, Council staff believe an appropriate method is to dissolve the Tocumwal Historic Aviation Museum Committee of Management and revoke their delegation.

Secondly, an agreement with the Tocumwal Historic Aerodrome Museum for the continued custody of the Tocumwal Historic Aerodrome collection may wish to be created.

Thirdly, Council staff believe it is necessary to invite the current members of the Tocumwal Historic Aerodrome Museum to a function at Tocumwal Aviation Museum to celebrate their achievements as a volunteer committee of the Council.



From: rmbrown@aapt.net.au <rmbrown@aapt.net.au>
Sent: Tuesday, 27 September 2022 1:01 PM
To: Emma McQueen <EmmaM@berriganshire.nsw.gov.au>
Subject: Windup Tham Section 355 Committee ref. your email 18 Aug.2022

TOCUMWAL HISTORIC AERODROME MUSEUM.

P.O. BOX 38, TOCUMWAL. NSW. 2714 Phone: 03 5874 2795 Email: rmbrown@aapt.net.au

26th September 2022

The General Manager,
Berrigan Shire Council,
56 Chanter Street,
BERRIGAN. NSW. 2712

Re Winding Up Tocumwal Historic Aerodrome Museum (THAM).

The development of the Tocumwal Aviation Museum (TAM) has enabled the withdrawal of the Tocumwal Historic Aerodrome Museum..

We therefore request that the Tham Section 355 Committee be wound up in accordance with the decisions of the Tham Annual General Meeting 14th Sept.2022.

Attached are the following relevant documents.

1. Minutes of Tham AGM 14th September 2022
2. Auditor's Report y/e 30 June 2022.
3. President's Final Report y/e 30 June 2021.
4. Treasurer's Report – Summary & Bank Reconciliation y/e 30 June 2022.
5. NAB Bank Statement y/e 30 June 2022 – A/c not yet closed due to GST outstandings.

All funds and museum collection transferred to Tocumwal Aviation Museum.

Should any further information be required, please advise.

R. M. Brown.

President.
Tocumwal Historic Aerodrome Museum.

(Encl.)

8.7 Convert Tocumwal Landfill and Transfer Station to only Transfer Station

Author:	Director Infrastructure, Rohit Srivastava
Strategic Outcome:	1. Sustainable natural and built landscapes
Strategic Objective:	1.3. Connect and protect our communities
Delivery Program:	1.3.2. Manage and landfill, recycling and waste disposal
Council's Role:	Asset Owner: As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
Appendices:	1. Solid Waste Management Strategy_PPT.pptx (under separate cover)

Recommendation

That Council convert Tocumwal Landfill and Transfer Station to a transfer station (including transfer of recyclables)

Purpose

The purpose of the report is to request approval of Council to convert Tocumwal Landfill and Transfer Station to only a Transfer Station from 12 December 2022, transport waste collected from Tocumwal to Berrigan, and consult with stakeholders to review operating times of Tocumwal and Berrigan Waste facilities.

Summary

Tocumwal landfill site is almost full and there is no further space to create new landfill cells. Tocumwal waste facility currently operates as waste and recycling site. It is proposed to continue the same, but transfer waste collected in skip bins at Tocumwal facility to Berrigan landfill site.

Council officers will work with relevant stakeholders, inform them of the change and work with stakeholders to ensure waste facilities at Tocumwal and Berrigan are operational to suit users.

Background

Please refer Appendix -1, Solid Waste Management Strategy presented at Corporate Workshop on 05 October 2022. The details of users, timing of operations, quantity of waste received, and the alternatives proposed are mentioned therein.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Council is participating in the joint RAMJO tender on kerbside waste collection. The tender includes FOGO (Food Organics and Garden Organics) and an introduction of third bin will be made from 01 July 2024.

The current process will start community to actively look for recycling options and reduce waste going to our landfill.

It is advised Council should start to develop a Resource Recovery Strategy as per the discussions held at the Corporate Workshop.

Issues and Implications

The residential users of Tocumwal landfill will be able to continue using the facility with no change. Commercial users will be asked to take their waste to Berrigan landfill.

Policy

There are no major policy issues identified.

Financial

There will be cost to transfer waste from Tocumwal to Berrigan waste facility. The cost is expected to be about \$100,000 per year. It is suggested to review the waste charges at our facilities to reflect actual cost to the service.

Legal / Statutory

There are no major legal issues identified with this change.

Community Engagement / Communication

It is proposed that Council officers will actively work to communicate the change to our community – why we are doing, what we going to doing and how we will be doing.

Human Resources / Industrial Relations (If applicable)

There are some operational changes in opening timings of Tocumwal and Berrigan facilities. These will be further refined, agreed and communicated after community consultation.

Risks

1. Natural Environment

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

There is no space available to continue landfill operations at Tocumwal and hence decision to operate the facility as only Transfer Station is the only option.

2. Financial

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The increase in cost of operations will be assessed and the review of Solid Waste drop-off fee would be established.

Options

- Option 1:** Convert Tocumwal Landfill and Transfer Station to ONLY recycling centre. This option has no added cost to Council but there are risks of community dissatisfaction and significant increase in illegal dumping as community is used to of having the facility at Tocumwal.
- Option 2:** Convert Tocumwal Landfill and Transfer Station to a transfer station (including transfer of recyclables). This has implications on financials, communications, operating timings, and human resources as mentioned in the report above.
- Option 3:** Temporarily convert Tocumwal Landfill and Transfer Station to ONLY recycling centre/transfer station and explore option of new landfill site around Tocumwal. This Option will take considerable time apart from various site investigations and may require EPA licence. EPA licence requires regular monitoring and reporting which would involve further investments in human resources and financials.

Conclusions

That Council adopts the recommendation:

That Council convert Tocumwal Landfill and Transfer Station to a transfer station (including transfer of recyclables)

8.8 T06-22-23 Demolition and Construction of Barooga Recreational Reserve- Netball Courts

Author:	Director Infrastructure, Rohit Srivastava
Strategic Outcome:	3. Supported and engaged communities
Strategic Objective:	3.2. Support community engagements through life-long learning, culture and recreation
Delivery Program:	3.2.1. Provide opportunities for life-long learning, culture expression and recreation
Council's Role:	Asset Owner: As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
Appendices:	Nil

Recommendation

That Council:

Refuse the request of Barooga Netball Committee for extra concrete works around the two netball courts and continue with the construction of courts as per the Contract awarded.

Purpose

The purpose of the report is to seek guidance from the Council on the request from Barooga Netball Committee to concrete an extra area while the construction of two netball courts is progressing. This extra concrete area would be used to install seating and scoreboards by the Netball Committee at their own cost.

Summary

The cost of concreting the extra area to accommodate request of Netball Committee is about \$25,000. This extra cost was not budgeted in the project's contingency budget. The extra works would also delay the concrete works by at least a month.

Background

Council at its August meeting resolved to allocate \$600,000 towards the Barooga Recreation Reserve. The funds are through grant funding under Local Roads Community Infrastructure Program, Round 3. Council also awarded T06-22-23 Demolition and Construction of Barooga Recreational Reserve: Netball Courts to a successful tenderer for a value of \$270,403.99 at its August meeting.

The financials of the project are presented below:

Package	Description	Estimated amount
Package – 1	Demolition and Construction of Barooga Recreational Reserve: Netball Courts	\$270,403.99
Package – 2	Lighting works	\$65,000
Package - 3	Surfacing & Line markings	\$50,000
Total project cost		\$385,403.99

Council officers also recommended to include 10% contingency, i.e., \$38,540 within the project budget, to reach an overall project budget of \$423,943.99. The contingency was largely included to address any unknowns (below ground) whilst construction of the netball courts affected.

The costs of Packages 2 & 3 are now known, and they are within the budgeted amounts of \$65,000 and \$50,000 respectively.

Variation 1:

The contractor is on-site and has already completed the demolition works. They have identified soft spots, which are largely due to wet weather conditions. To adequately treat these soft spots, the variation amount is about \$15,000. The works included in this variation would include:

- Removal and disposal of unsuitable material
- Supply of new materials, as per standards
- Installation and compaction
- Inspection and Testing

The variation can be approved by Council officers, but it is presented here as the variation amount affects the project's overall financials. This variation is a "must-do" technically.

Variation 2: To accommodate the request from the Netball Committee and extend the concrete pavement by 3 metres and reposition the pavement (1.5 metre on both sides), Council will need to vary the scope of the project including:

1. Change in design
2. Extension of lighting conduits
3. Variation to surfacing quote
4. Re-construction of subsoil drain
5. Construction of concrete pavement (grade as mentioned in the contract) and supporting layers.

Value of these works are estimated to be \$25,000.00 (incl. GST).

Project financials options are presented below:

Package	Description	Amount
Package 1	Demolition and Construction of pavement	\$270,403.99
Package 2	Lighting Works	\$65,000.00
Package 3	Surface and Line marking	\$50,000.00
	Project Base cost	\$385,403.99
	Variation 1 (Treat soft spots) – MUST DO	\$15,000.00
	Total Project Cost	\$400,403.99
	Overall project budget	\$423,943.99
	Surplus after Variation 1	\$23,540.00
	Variation 2 – Request from Netball Committee	\$25,000.00
	Funds available to address any unforeseen	-1,460.00

Options are presented below for Council’s consideration:

Option 1: Reject the request of Netball Committee for extra concrete works around the two netball courts and continue with the construction of courts as per the Tender awarded.

Option 2: Accept the request of Netball Committee for extra concrete works around the two netball courts and complete the works with Contractor already engaged by the Council BUT variation 2 to be funded entirely by the Netball Committee.

Option 3: Accept the request of Netball Committee for extra concrete works around the two netball courts and complete the works with Contractor already engaged by the Council. Accommodate the variation within the overall project funding of \$600,000 towards Barooga Recreation Reserve.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

The works are being undertaken as per the Council’s adopted Barooga Recreation Reserve Masterplan.

Issues and Implications

Policy

There are no major issues with respect to Policy if Council approves to accommodate Netball Committee request.

Financial

The project budget of \$600,000 is sufficient to address Variation 2 and there are no major issues with the financials of the project.

Legal / Statutory

There are no major issues identified.

Community Engagement / Communication

The request of additional concrete works is from the Netball Committee as the Council’s project manager is actively working and is engaged with the community.

Human Resources / Industrial Relations (If applicable)

There are no major issues identified.

If Variation 2 is not accepted, then the risks are largely community dissatisfaction.

1. Community

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Netball Committee would be dissatisfied as they are expecting the request to be accommodated by the Council.

2. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The project has sufficient overall budget to accommodate Variation 2.

3. Built Environment

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The acceptance of Variation 2 would delay the completion of concrete works which would further delay the surfacing and lighting works.

Options

That Council:

Recommendation 1: Refuse the request of Barooga Netball Committee for extra concrete works around the two netball courts and continue with the construction of courts as per the Contract awarded.

Or

Recommendation 2: Accept the request of Netball Committee for extra concrete works around the two netball courts and approve Variation 2, delegate CEO to alter the overall Contract value depending up on 100% funding of Variation 2 by the Netball Committee.

Or

Recommendation 3: Accept the request of Netball Committee for extra concrete works around the two netball courts and approve Variation 2 and delegate CEO to alter the overall Contract value. Accommodate the variation within the overall project funding of \$600,000 towards Barooga Recreation Reserve.

8.9 T04-22-23 In situ Pavement Stabilisation

- Author:** Operations Manager, Gary George
- Strategic Outcome:** 1. Sustainable natural and built landscapes
- Strategic Objective:** 1.3. Connect and protect our communities
- Delivery Program:** 1.3.1. Coordinate flood levee, local road, sewer and stormwater asset management and planning
- Council's Role:** **Agent:** Typically, this would involve the Council delivering a service, funded by a government agency that is, or is likely to be regarded as, the responsibility of another government level
- Appendices:**
1. T04-22-23 Price Evaluation (under separate cover)
 2. T04-22-23 Evaluation report (under separate cover)

Recommendation

That Council:

1. Awards the following compliant submission for the 2022-23 financial year for T04/22/223 in-situ Pavement Stabilisation to:
Stabilco Pty Ltd
2. Sign the contract documents.
3. Appoint the Director Infrastructure as the Contract Superintendent and Operations Manager as the Superintendents' Representative.

Background:

Council each year puts out an annual tender for the service for the provision of in-situ pavement stabilization works on various roads within the shire.

The works include supply, spreading and mixing of stabilising binders with material in a nominated pavement course or subgrade layer as part of road rehabilitation works. This is a unit rate Contract and the budget of this works is already allocated within the capital works road projects.

Works not included in the contract include ripping existing road pavement, boxing, shape and form pavement, compaction of stabilised pavement, primer sealing and traffic control and site management. These works will be performed by the Council's own work force. Quantities of work will vary depending on the Council's works program and mix designs. However, as an indication it is expected that there will be approximately 50,000m² of stabilisation carried out in the 2022-23 financial year. Most of the work will be on rural roads.

Tender Evaluation:

Once council has received tenders, Road Infrastructure Department assess the Tenders in line with BSC083 template Tender Submission Evaluation. (See per attached evaluations).

The evaluation Panel consisted of:

Gary George – Operations Manager

Darron Freund – Technical Support Officer (Reseal Supervisor)

Dean Loats – Construction Overseer

Evaluation team evaluated the tenders as per the advertised criteria:

- Rate
- Compliance with specification
- Track record
- WHS system
- Availability of appropriate skills and resources

Council received five compliant tenders from:

1. Stabilifix
2. Stabilco
3. Downer
4. Highway
5. Roadworx

One non-compliant tender was received from Fenwork, which was for Asphalt company only.

Please refer appendices for tender evaluation and schedule of rate Comparison.

SUPERVISOR

The superintendent of the contract will be the Director Infrastructure and the Superintendent's Representative will be the Operations Manager.

Resolution:

That Council:

1. Awards the following compliant submission for the 2022-23 financial year for T04/22/223 in-situ Pavement Stabilisation to:

Stabilco Pty Ltd

2. Sign the contract documents.
3. Appoint the Director Infrastructure as the Contract Superintendent and Operations Manager as the Superintendents' Representative.

8.10 T05-22-23 Cut Back Bitumen for 2022_2023 year

- Author:** Operations Manager, Gary George
- Strategic Outcome:** 1. Sustainable natural and built landscapes
- Strategic Objective:** 1.3. Connect and protect our communities
- Delivery Program:** 1.3.1. Coordinate flood levee, local road, sewer and stormwater asset management and planning
- Council's Role:** **Agent:** Typically, this would involve the Council delivering a service, funded by a government agency that is, or is likely to be regarded as, the responsibility of another government level
- Appendices:**
1. T05-Cut Back Bitumen - Evaluation Report (under separate cover)
 2. T05-22-23 Cut Back Bitumen - Schedule of Rates (under separate cover)

Recommendation

That Council:

1. Accepts the following compliant Submission for the 2022-23 financial year for T05/22/23 cut back bitumen as set out below:

Downer EDI Works Pty Ltd

2. Sign the contract documents.
3. Appoint the Director Infrastructure as the Contract Superintendent and Operations Manager as the Superintendents' Representative.

Background:

Council each year puts out an annual tender for the service, to provide sprayed bituminous surfacing for roads and related applications comprising:

- Prime
- Primerseal
- Seal:
 - With conventional bitumen, cutback bitumen or bitumen emulsion binder.
 - With modified binder, e.g. multigrade binder, polymer modified binder.
 - Incorporating geotextile fabric, with or without modified binder.

This service is to apply a surface application to protect the life of the pavement underneath meeting best price and quality. The Contract is a unit rate contract with cost of works already budgeted for within the projects capital cost.

Tender Evaluation:

Once Council has received tenders, Road Infrastructure Department assess the Tenders in line with BSC083 template Tender Submission Evaluation. (See per attached evaluations).

The evaluation Panel consisted of:

Gary George – Operations Manager

Darron Freund – Technical Support Officer (Reseal Supervisor)

Dean Loats – Construction Overseer

Evaluation team evaluated the tenders as per the advertised criteria:

- Rate
- Compliance with specification
- Track record
- WHS system
- Availability of appropriate skills and resources

Council received four compliant Tenders from:

- State asphalt
- Downer
- Fulton hogan
- Primal

One non-compliant tender was received from Fenwork which was for Asphalt only.

See attached appendices for evaluation and schedule of rate Comparison.

SUPERVISOR

The superintendent of the contract will be the Director Infrastructure and the Superintendent's Representative will be Operations Manager.

Resolution:

That Council:

1. Accepts the following compliant Submission for the 2022-23 financial year for T05/22/23 cut back bitumen as set out below:
Downer EDI Works Pty Ltd
2. Sign the contract documents.
3. Appoint the Director Infrastructure as the Contract Superintendent and Operations Manager as the Superintendents' Representative

8.11 Special Request for Interment of Ashes - Finley Cemetery

Author:	Executive Assistant, Jacq-Lyn Davis
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	<ol style="list-style-type: none">1. Special Request for Interment of Ashes into Finley Lawn Cemetery - Callaghan.pdf ↓2. Policy No. 11 - Monumental and Lawn Cemeteries Policy - 21.11.1995.pdf ↓

Recommendation

That the Council approve this request and allow the interment of ashes into the specified plot Finley Lawn-A, Row F, Plot No. 43.

Purpose

The Council is in receipt of a special request, via Berriquin Funerals for a family seeking Council approval to utilise a vacant plot in the Finley Lawn-A Cemetery, Row F, Plot No. 43 for the interment of ashes. The request, including photos is attached as **Appendix 1**.

Summary

The specified plot is next to a family member (daughter) and this request is presented on the basis that the plot is not a reasonable size for a standard burial, as the roadside kerb is obstructing the grave space (see photos).

Background

Council's current policy for Monumental and Lawn Cemeteries stipulates ashes may not be a first interment in any monumental or lawn section. A copy of the policy is attached as **Appendix 2**.

Issues and Implications

The only implication, if approved, is that Council may be setting a precedent.

This would be the third request the Council, if approved, that is in opposition to its current policy in the past 12 months.

Each request has its own rationalisation, and should be considered on the individual merits.

Policy

The current policy *Monumental and Lawn Cemeteries Policy* (Appendix 2) is in need of review. Staff are currently undertaking a Service Review of its cemeteries, and this policy will be a part of that review.

Conclusions

In conclusion to this report, the family's request is not deemed to be unreasonable. The plot would only be used for an infant (if at all) as it is not suitable for a standard burial.

In my opinion, to finish this row with a plaque on the plinth would be a nice addition to the cemetery. If the family were to place ashes in the vacant plot, it would be on the proviso that a plaque is added to the plinth.



Lawrence Walsh <lawrence@berriquinfunerals.com.au>
To Jacq-Lyn Davis



10:20 AM

You replied to this message on 11/10/2022 10:59 AM.

To the Mayor of Berrigan Shire Council

The family have requested about utilising a plot in the Finley Lawn Cemetery for placing family ashes.

The Row is Row F Plot number 43 – Next to Kirsty Lee Callaghan.

They have requested that they would like to inter ashes into this vacant plot and utilise the space.

There are family members in plot 42 – Being Allan’s daughter and 41 being Allan’s parents it is unlikely that it will be utilised as it is not a big enough plot for a traditional coffin interment due to the kerbing that is in place see the pictures attached with the grave cover on and overhanging the kerb – it would be fitting that it utilised by them as there are family members already there.





Policy

11 MONUMENTAL AND LAWN CEMETERIES

GENERAL INFORMATION AND REGULATIONS

The following information is furnished in respect of the operation of the Council's cemeteries.

1. General Control

The Council's General Manager shall have the control of all cemeteries, including the conduct of funerals, traffic, maintenance and visitors.

The General Manager has the authority to remove any trees, shrubs, plants, flowers, etc. from a cemetery or from any grave therein as soon as, in the judgment of the General Manager, they become unsightly, dangerous, diseased, or when they do not conform to the standard maintained or desired within the cemetery.

The Council reserves the right to remove:

- A. All wreaths and floral tributes from any grave after a period of seven days following interment;
- B. Any bottles, tins, cans or other article placed on a grave as a container for floral tributes, which may be detrimental to the appearance of the cemetery, including any vase or other container which has become broken or damaged.

The Council shall not be held liable, nor will it accept any responsibility for damage done for any reason or cause whatsoever or for the theft of any article placed upon a grave.

2. Lawn Cemeteries

No monumental work is permitted in the Council's lawn cemeteries. Only the bronze plaques arranged by the Council are permitted, i.e. 380mm x 280mm.

No planting of shrubs, flowers, etc. is permitted over grave sites.

The standard lawn plaque and headstone is included in the cemetery fees. There is a special plaque available which has provision for an additional



Policy

name to be added. This type of plaque is suitable for graves where double interment is to be made and is available in attractive designs. If the applicant desires to acquire a ceramic photograph for placement on a standard plaque, while it is not recommended, they may do so subject to acknowledgment that the Council will not be held liable nor accept any responsibility, for any damage to such a ceramic photograph or for any fading or deterioration in the visual quality of the ceramic photograph.

Plaques are of bronze, and polishing is prohibited as it damages the lettering. Furthermore, plaques should be left to age, as it is the practice with historical monuments.

In order that fresh floral tributes may be placed on the lawn cemetery memorials, special flower containers are incorporated, and these are the only type acceptable, accordingly **NO WREATHS ARE TO BE PLACED AND LEFT ON GRAVES WITHIN THE LAWN CEMETERY.**

NOTE: In any case where wreaths are left on graves either the Caretakers or the organisation responsible for maintenance retain the right to remove such wreaths at their discretion.

3. Memorial Walls
The reservation of a niche in a memorial wall can be made by appropriate application and payment of the fee as determined by the Council from time to time.
4. Monumental and Lawn Cemeteries Generally

Graves - Removal of Flowers and Wreaths

Flowers and plastic wreaths will be removed from new graves after an appropriate period, to allow filling and levelling, as normal subsidence of soil takes place.

It is suggested that following the initial burial, only fresh flowers be left at memorials and monuments. These may be removed generally on a weekly basis to enable mowing of lawns and tidying up, except where interments have recently taken place, in which case the flowers will be removed when withered.

Plastic flowers will be permitted on monuments in that section of the cemetery, and removal of these will be left generally to the discretion of the relatives, however the Council will retain the right to remove them as they reach a state of deterioration.



Policy

Interments

Ashes may not be a first interment in any monumental or lawn section.

Ashes may only be interred in a lawn or monumental grave subsequent to a traditional burial.

Ashes may be removed from a niche if required and interred with a burial in a monumental or lawn grave.

Where ashes are removed from a niche for interment with a burial the Council refund the cost of the niche reservation.

Other Regulations

- A. No person shall interfere with any plant, flower, shrub, tree or lawn or commit any nuisance
- B. Under no circumstances are any decorations to be fixed to headstones or monuments.
- C. Animals are not permitted in the cemetery grounds.
- D. Traffic speed limit is restricted to 10km per hour.

(Adopted by Council 21/11/1995)
(Amended 19/11/2003)

8.12 Corporate Workshop Outcomes

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	Nil

Recommendation

That Council:

1. Council advise the community of the imminent closure of the Tocumwal Landfill site, including the reasons for its closure (the Landfill is full).
2. Council approve the redesign of the Tocumwal Landfill Site to establish it as an effectively functioning transfer station
3. Council engage with the community to extend opening hours at the Berrigan and Tocumwal sites to allow for longer opening times to accept recyclables and waste at both sites.
4. Council instruct the CEO to develop Council's Resource Recovery Position Statement and bring it back to Council for consideration.
5. That Council endorse the change of timeframe to the full review of the CSP which will include re-tendering a reduced scope in Match 2023 with delivery of the finalised CSP to be February 2024. The new timeframe will allow for full alignment with Council's IP&R Plans and reporting framework.
6. Develop a governance framework and Terms of Reference for committees to progress Councillors' Big Ideas.
7. Staff use the discussion points and outcomes of the Workshop to narrow the tender documents for the CSP Review.
8. Council commission the development of a Rural Land Use Strategy (which should include consideration of Employment Land). Council acknowledge the development of a Rural Land Use Strategy will require comprehensive engagement with industry which will delay the finalisation of the LEP Review / drafting of the required Planning Proposal.
9. Council endorse review of the timeline for submission of the LEP Review / draft Planning Proposal and the Rural Land Use Strategy to the Department for Assessment to the end of Financial Year 22/23 of first quarter 23/24 depending on the ability to engage the rural sector in relevant discussion.

Purpose

Council's Corporate Workshop was conducted in Yarrawonga on 6 and 7 October 2022. This report is intended to provide a summary of discussions over the day and a half of discussions, and seek Council's direction regarding a number of matters discussed at that time.

Summary

The Corporate Workshop is held annually to work through issues Council is pursuing and to consider possible strategic objectives for each area discussed. Although one was held in February, Council felt holding them in Sept/Oct from now on will be more useful as it will allow the workshop to align with our IP&R program and allow Council to consider what the Operational and Delivery Plan should look like each year.

Discussion

RESOURCE RECOVERY

The first topic took Council and managers through the pressures Council is facing to move more boldly into the Resource Recovery area including State and Federal initiative that Local Governments will need to respond to (such as phasing out single-use plastics and the move to Net Zero emissions).

The Circular Economy and State policy, including possible funding sources were also discussed and considered. It was agreed that Council moving to Food Organics and Garden Organics (FOGO) collection is an important first step. Part of that transition will need to include a considerable education piece to engage our community. The implementation of FOGO will extend the life of the Berrigan Landfill site until at least 2042.

Also discussed was the current issues facing Council landfills and the terms of their useful life.

A decision from Council is required to assist with the solidifying the direction Council would like to take with regards to the closure of the Tocumwal Land Fill and managing that site into the future.

Councillors and staff then worked through a number of themes that will assist with developing a Resource Recovery Position Statement. The concepts surrounding the Position Statement development finalised the first session of the day.

Recommendations from First Session

1. Council advise the community of the imminent closure of the Tocumwal Landfill site, including the reasons for its closure (the Landfill is full).
2. Council approve the redesign of the Tocumwal Landfill Site to establish it as an effectively functioning transfer station
3. Council engage with the community to extend opening hours at the Berrigan and Tocumwal sites to allow for longer opening times to accept recyclables and waste at both sites.
4. Council instruct the CEO to develop Council's Resource Recovery Position Statement and bring it back to Council for consideration.

COMMUNITY STRATEGIC PLAN – PART 1

The second session considered the current challenges faced in reviewing the Community Strategic Plan (CSP). Council were made aware of the disparity between the budget allocation and the quotes received to review the CSP. Council staff have recommended the full review of the CSP now commence early in the New Year (2023 to allow for a 2023/2024 delivery, which will align with the next election cycle). Altering the deadline will allow staff to complete the much more urgent Local Environment Plan (as discussed later in this briefing note) and attend to some of the elements of the CSP review prior to engaging with a consultant to complete the review of the CSP. It is believed some of the feedback from the LEP review may be useful in informing the CSP review in some aspects.

Recommendation from the Second Session

1. That Council endorse the change of timeframe to the full review of the CSP which will include re-tendering a reduced scope in March 2023 with delivery of the finalised CSP to be February 2024. The new timeframe will allow for full alignment with Council's IP&R Plans and reporting framework.

BIG IDEA PITCHES

Councillors next were given 5 minutes each to pitch one big idea to group and whilst the next sessions of CSP considerations were being delivered, I prepared voting forms to prioritise these ideas into the order in which they are presented below:

1. The Green Bullet (Cr Carly Marriott) – 188 votes
2. Industrial Hub (Cr Sarah McNaught) – 160 votes
3. Eco Pods – Tourist Accommodation (Mayor Matt Hannan) – 159 votes
4. Youth Hub (Cr Renee Paine) – 122 votes
5. Solar Saver Battery Program (Cr Julia Cornwell-McKean) – 117 votes
6. Tourism Growth opportunities (Cr Ted Hatty) – 111 votes
7. Logistics Hub (Cr John Taylor) – 91 votes
8. Road Network Planning (Cr Roger Reynoldson) – 75 votes (Service Review underway)

Recommendation

Staff would like direction from Council about how and when to best commence work on any / all of these projects. There are a number of options available including developing a committee(s) to steer the development of project proposals and to commence the search for investors etc. Consideration of how to approach these ideas may be best left to a Strategic and Policy workshop if Council feels that will be a more practical approach.

I think we may be able to set up a framework where we assign portfolios to those Councillors willing to drive their Big Ideas. This will require a governance framework to ensure any conflict of interest etc are managed and ensure any committees have a Terms of Reference document to assist with their focus. The implementation of a portfolio responsibility will assist staff in ensuring these ideas are not lost and focus is maintained to deliver them in a timely manner.

COMMUNITY STRATEGIC PLAN – PART 2

Councillors and staff were then asked to consider the various focus areas of the Community Strategic Plan:

- Governance Outcomes

- Economic Outcomes
- Social Outcomes
- Environmental Outcomes

The first session of this delivery walked the group through the development of Council's governance framework and the internal works that will need to be undertaken to provide a robust governance system for Council.

For each of the above areas however, Council can, outside of the review of the CSP consider both the role of Councillors in each of the focus areas and the role of the Elected Body as a whole. These are considerations that will assist in supporting the aspirations of the community and ensure Council is able to deliver on those goals. Those considerations will also help Council to consider what success in each of the areas looks like and how each desired outcome will be measured.

Recommendations

Staff recommend we use the outcomes and discussion points made as part of the Corporate Workshop to refine the tender documents for the CSP review.

LOCAL ENVIRONMENTAL PLAN REVIEW

The final session of the Corporate Workshop initially took Council through where the process of the review of the Local Environment Plan is currently up to.

- Commenced March 2022
- Public EOI for Reference Group Members April 2022
- Reference Group meetings held
- Draft Strategic Context Report prepared 7 July 2022 (process requirement)
- Draft Structure Plans being developed

The key issues facing the approval of the Strategic Context Report and therefore ultimately the reviewed LEP were then discussed, including the current Ministerial direction regarding Rural Lands (RU1) and the effect of the State Significant Agricultural Lands overlay.

Recommendations

1. Council commission the development of a Rural Land Use Strategy (which should include consideration of Employment Land). Council acknowledge the development of a Rural Land Use Strategy will require comprehensive engagement with industry which will delay the finalisation of the LEP Review / drafting of the required Planning Proposal.
2. Council endorse review of the timeline for submission of the LEP Review / draft Planning Proposal and the Rural Land Use Strategy to the Department for Assessment to the end of Financial Year 22/23 of first quarter 23/24 depending on the ability to engage the rural sector in relevant discussion.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Resource Recovery Strategy

Waste Management Strategy

Community Strategic Plan

Local Environment Plan

District Control Plans

Land Use Strategy

Housing Strategy

Employment Land Strategy

Issues and Implications

RESOURCE RECOVERY

This is a high priority strategic area for Council and will come at some considerable cost as it will require consideration of new infrastructure and possibly private industry partners to ensure we can meet the aspirations of the community in this area.

COMMUNITY STRATEGIC PLAN

The delay in the development of the CSP will have no real impact on Council as such other than the updated vision for the community will be delayed in its engagement, development and implementation.

COUNCILLOR BIG IDEAS

We have no understanding of how much most of these ideas might cost Council however there will be opportunities to find private market players to deliver some of the opportunities for Council. We will have to develop clear visions of what we want from each idea and work out how and when we might be able to develop things like business cases and plans for delivery.

LEP REVIEW

Moving the timelines for the CSP development and the finalisation of the LEP review in particular will have some impacts on Council's ability to engage with and develop new ideas with the community.

The current LEP will remain in place as the primary development document for assessment until the finalisation of the LEP review and the approval by the Department of the Planning Proposal.

The current CSP will also remain in place until the CSP can be fully reviewed. The delay will however allow Council to align the new strategy with its IP&R framework and reporting requirements more fully and allow for implementation after the next election cycle.

Policy

Nil

Financial

The financial cost of any of the Big Ideas will need to be assessed as we understand more of the scope of each idea and how much involvement in the delivery and management Council will have to include in its considerations for the future.

The cost of developing the Land Use Strategy should be considered however is not fully understood at this time. Without it however, the review of the LEP will not be approved by the Department as it will not meet the threshold requirements recently imposed by the Ministerial Direction. It is estimated the Land Use Strategy development will cost between \$50,000 and \$120,000. As soon as staff have a relevant quote, it will be shared with Council.

Legal / Statutory

Council have acknowledged that the current LEP is out of date and in urgent need of review. Without a future focussed LEP Council will not be able to ensure development of our communities is possible into the future, and certainly any development that does occur into the future would have to remain ad hoc in nature.

Community Engagement / Communication

Where community engagement is required for any of the above, a Communications Strategy will be developed to ensure all stakeholders are equitably considered.

Human Resources / Industrial Relations (If applicable)

Nil at this time

Conclusions

Positive feedback has been received regarding the Corporate Workshop and its outcomes.

8.13 Discrimination, Bullying, Harassment and Workplace Violence Policy

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	1. Policy No.28 - Discrimination, Bullying, Harassment and Workplace Violence Policy ↓

Recommendation

That Council:

1. Revoke the Discrimination, Workplace Bullying and Harassment Policy adopted on 21 May 2014, and
2. Adopt the Discrimination, Bullying, Harassment and Workplace Violence Policy as presented.

Purpose

The purpose of this report is to seek Council's approval of the updated Discrimination, Bullying, Harassment and Workplace Violence Policy.

Summary

The update to the Policy establishes an increased framework and responsibilities surrounding the management of discrimination, bullying, harassment and workplace violence. The policy now also sets out clear standards of behaviour that were missing in previous versions of the document.

Background

A recent bullying and harassment claim was made about an employee by a number of other employees. The response to the recommendations of the ensuing external investigation included that changes be made to the Code of Conduct. Our Code of Conduct however is based on the model Code from LGNSW and requires employees to adhere to all Policies and Procedures of Council. To that end I have significantly altered the current Discrimination, Bullying, Harassment and Workplace Violence policy to provide both a more robust framework for the management of relevant incidents, and to provide a range of positive behaviours Council encourages as part of its normal interactions.

I understand some will find it difficult to understand why such things need to be spelled out. The fact is when investigations into such matters occur the investigator will always turn to the Code of

Conduct and relevant policies and procedures to ensure they are clear about what is an is not acceptable behaviour.

A snap shot of the two most recommendations relevant to this matter is included below:

11. Review the Council's Code of Conduct and include provisions relating to its expectations about positive behaviours such as respect, courtesy and professionalism.
12. Provide education or training to staff in general about:
 - a. amendments made to the Council's Code of Conduct;
 - b. the importance of ensuring that any behaviours that may be considered to be inappropriate are immediately reported to their managers, or to Council's Human Resources department; and
 - c. possible medical conditions or medications that co-workers may have (which others may not be aware of) which may cause them to react or behave differently, particularly at a social level;

Training regarding bullying, harassment and discrimination identification and management are currently being rolled out as part of the update of this policy and the recommendation above.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Nil

Issues and Implications

The management of workplace bullying, and harassment has been adhoc based on investigations to date. Behaviours have not necessarily been addressed appropriately nor in a timely manner and therefore it has been difficult to ensure employees understand what is an is not acceptable behaviour in the workplace. Part of the reasons for the unsubstantiated findings in the external report were that the behaviours had continued for many years and managers had previously not addressed the matter. Ignoring behaviours, or hoping they will go away, is a form of acceptance and so the complaints made by the informants could not be substantiated as not being normally accepted behaviours in the workplace.

Policy

Work Health and Safety Act 2011

Work Health and Safety Regulation 2011

Fair Work Act 2009

NSW Anti-Discrimination Act 1977

Disability Discrimination Act 1992

Sec Discrimination Act 1984

Local Government (State) Award 2020

Financial

Nil

Legal / Statutory

Council has a legal and statutory requirement to ensure discrimination, bullying, harassing and violent behaviours do not occur in the work place. The strengthening of this policy will assist in ensuring acceptable behaviours and a more robust framework are understood by employees.

Community Engagement / Communication

Nil

Human Resources / Industrial Relations (If applicable)

Discrimination, bullying, harassing and violent behaviours can have significant effects on employees and compensation caused by stress, and even the inability to return to work have the potential to be costly for Council if not managed correctly into the future.

Risks

1. People and Culture

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

A workplace that accepts these types of behaviours is generally subject to high staff turnover and certainly reputational loss due to complaints being made public, especially if these complaints reach court.

2. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The claims for these types of matters can be in the millions of dollars due to the detrimental effect it can have on the person’s ability to work into the future. Ensuring a workplace that is free of this type of behaviour is of critical importance to good culture, effective operations and staff morale.

Conclusions

It is recommended Council adopt the new Policy as presented to ensure employees have a better understanding of the acceptable behaviours and to provide a more robust framework to deal with these types of complaints.



Policy

28

DISCRIMINATION, BULLYING, HARASSMENT AND WORKPLACE VIOLENCE POLICY

Strategic Outcome:	Good government	
Policy type	Strategic	
Date of Adoption:	19 October 2022	Minute Number:
Date for Review:	15 October 2025	
Responsible Officer:	Chief Executive Officer	
Document Control:	Version 2.0	
Delivery Program Link:	2.2.2 Council operations support ethical, transparent and accountable corporate governance	

1. POLICY STATEMENT

Council is committed to providing a safe and healthy workplace environment. This policy, in conjunction with Council's Code of Conduct, Equal Employment Opportunity Management Plan and Policy, and Work Health and Safety Policy, is a reflection of Council's statutory obligations.

Discrimination, harassment, bullying, and workplace violence are unacceptable behaviours and will not be tolerated by the Council.

Council aims to ensure all those participating in the workplace are treated with respect, dignity and fairness with an aim of creating an environment which promotes positive working relationships.

2. PURPOSE

The purpose of this policy is to provide guidance to all staff on how to identify and report unacceptable behaviours, ensure responses are timely and actions taken demonstrate Council's intolerance to these behaviours. In line with Council's values, this policy is designed to assist in promoting a workplace culture of dignity and respect.



Policy

The policy further sets out the types of behaviours and conduct which will be taken to constitute bullying, harassment and/or violence and establishes procedures for handling complaints of occurrences of these matters in the workplace.

3. SCOPE

This policy applies to:

- all workers of the Berrigan Shire Council including volunteers, contractors and councillors;
- recruitment; and
- all Council worksites and the extended work environments, including Council social gatherings, work related trips, and social media.

This policy is not limited to the workplace or working hours, and will include all work related events which includes, but is not limited to, lunches, client functions, meetings and conferences as well as Council social functions.

This policy relates to, but is not limited by, the following types of communication where the behaviour is related to Workplace Bullying, Harassment or Violence:

- verbal communication either over the telephone or in person in the workplace, or outside of it;
- written communication including letters, notes, minutes of meetings etc;
- internal and external electronic communication including (but not limited to):
 - email;
 - instant messaging;
 - faxes;
 - social media and networking forums such as Facebook, LinkedIn, Twitter, TickTok, BeReal and other forms of social media; and
 - communications via text message.

4. DEFINITIONS

Bullying is any repeated and unreasonable or anti-social behaviour that offends, degrades or humiliates a person or group of persons, and has the potential to create a risk to health, safety and wellbeing. Bullying refers to coercive, unethical activities that create an environment of fear.

Council means the Berrigan Shire Council



Policy

- Discrimination** is unfair or unjust treatment of or decisions affecting an individual because of their sex, race, age, marital status, gender identity, carer's responsibilities, disability, age, pregnancy, union membership or other personal activities covered by the *NSW Anti-Discrimination Act 1977* and *Fair Work Act 2009*.
- Harassment** means verbal or physical conduct which, because of its severity and/or persistence, is likely to create a hostile or intimidating environment which may detrimentally affect an individual's employment. Harassment is defined by reference to the nature and consequences of the behaviour, not the intent of the initiator (*NSW Anti-Discrimination Act 1977*).
- Reasonable management action** is lawful and is not bullying or harassment. There are times when Council may take reasonable management action to effectively manage their operations including:
- setting reasonable performance goals, standards and deadlines;
 - allocating work;
 - rostering and allocating reasonable working hours;
 - transferring a worker for operational reasons;
 - failing to promote someone after a proper, documented selection process;
 - informing a worker their performance is unsatisfactory, after following established performance management guidelines;
 - informing a worker, objectively and confidentially, their behaviour is inappropriate; and / or
 - a restructure.
- Sexual Harassment** means unwelcome sexual advances, requests for sexual contact and verbal or physical conduct of a sexual nature when submission to, or rejection of, such advances, request or conduct is explicitly or implicitly a term or condition affecting employment decisions; and/or when such advances, requests or conduct have a detrimental effect on an individual's work environment (*Sex Discrimination Act 1984*).
- Workplace conflict** is generally not considered to be workplace bullying. Not all conflict is negative nor does it always pose a risk to health and safety. When conflict is at a low level and task based, it can generate debate and lead to new ideas



Policy

and innovative solutions. However, in some cases, conflict that is not properly managed may escalate to the point where it fits the criteria for workplace bullying. A single incident of unreasonable behaviour is not bullying, although it may have the potential to escalate into bullying. Single incidents may still create a risk to health and safety.

Workplace violence occurs when a person is abused, threatened or assaulted in circumstances relating to their work. Unlike bullying, an action does not need to be repeated to be considered violent. Threats to harm someone, violence and damage to property are criminal matters that will be referred to the Police.

5. POLICY IMPLEMENTATION

5.1 Standards of Behaviour

In line with Council's commitment to creating a workplace which is free of workplace health and safety risks, fair treatment and one which strives to create positive working relationships, all those covered by this policy and any associated procedures or guidelines, are expected to observe the following minimum standards of behaviour.

1. Being polite and courteous to others.
2. Being respectful of the difference between people and their circumstances.
3. Ensuring they do not engage in any bullying, harassing, discriminatory or violent behaviours towards others in, or connected with, the workplace which includes customers, clients, supervisors and other managers.
4. Ensuring they do not assist, or encourage others in the workplace, or in connection with the workplace, to engage in any bullying, harassing, discriminatory or violent behaviour of any type. Assisting will include ignoring unacceptable behaviour when it is witnessed.
5. Adhering to the complaint procedure outlined in this policy if they experience any bullying, harassing, discriminatory or violent behaviours.
6. Reporting any bullying, harassing, discriminatory or violent behaviours they see happening to others in the workplace, or connected with the workplace, in line with the complaint procedure in this policy.
7. Keeping information confidential if involved in any investigation of bullying, harassment, discrimination or workplace violence.

These standards of conduct are intended to operate in addition to, and in conjunction with, Council's Code of Conduct.



Policy

5.2 Responsibilities

Workers

All workers have a responsibility to:

- be aware of the behaviours that could constitute discrimination, harassment or bullying;
- be aware of the extended work environments where discrimination, harassment or bullying can occur such as social outings, workplace trips and social media.
- ensure your own conduct does not cause offence or misunderstanding and support the values expected by the Council;
- be prepared to stand up against discrimination, harassment or bullying at work or to support colleagues who are being subjected to inappropriate behaviours; and
- seek advice and support if necessary.

Managers

All managers have a responsibility for the implementation of this policy and to prevent, stop and take action to deal with inappropriate behaviour without waiting for a complaint from a worker.

Managers are responsible for taking an active role in ensuring proper standards of conduct amongst workers under their control.

Managers must ensure that once they become aware of an issue relating to discrimination, harassment or bullying they have a duty of care to ensure the matter is resolved in a timely manner.

5.3 Bullying Behaviour

Bullying is repeated, unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety and is unlawful.

Repeated behaviour refers to the persistent nature of the behaviour and may involve a range of behaviours over time. Repeated behaviour may under some circumstances be represented by a one off event, where the event is sustained and also meets the unreasonable test below.

Unreasonable behaviour means behaviour a reasonable person, having regard for the circumstance, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

Examples of bullying may reasonably include (but are not limited to):



Policy

- a manager or supervisor using a management style that is harsh, involves shouting, constant criticism or humiliation of an employee, or group of employees, in private or in front of their peers;
- an employee being treated less favourably by another employee or group of employees in the workplace, including actions such as intimidation, forcing an employee to participate in an “initiation” process, the playing of practical jokes or forcing an employee to undertake demeaning tasks;
- sniggering or gossiping behind someone’s back where the intent is clearly to embarrass the person or to share a secret that is not yours to share.
- laughing at someone in the workplace that is intended to make them feel uncomfortable or distressed
- a manager setting unreasonable timelines or constantly changing the deadlines for an employee to meet, or setting tasks that are unreasonably below or beyond a person’s skill level; and / or
- continuously and deliberately excluding someone from workplace activities including ignoring them and keeping them isolated from relevant communications about work issues.

5.3 What is not Bullying Behaviour

Fair and reasonable management action taken in order to counsel an employee for instances of underperformance, investigating complaints made against employees, discipline for misconduct and other work directions in line with the business needs of Council do not constitute bullying.

5.4 Harassment

Harassment may involve intimidating, offensive or humiliating physical or verbal conduct towards a person based on a protected characteristic (see Discrimination above) and ranges from unacceptable comments through to physical violence any of which could reasonably be expected to make a person feel offended, humiliated or intimidated.

5.5 Sexual Harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favours, inappropriate and unrequested touching, sexually loaded comments and jokes that are unwelcome and of a sexual nature that could be expected to make a person feel embarrassed, belittled, offended, humiliated or intimidated.

5.6 Discrimination



Policy

Discrimination is behaviour directed toward a person or a group of people that treats them unfairly or less favourably than others because they have a particular characteristic, or they belong to a particular group of people.

Protected traits include race, colour, sex, sexual orientation, gender identification, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Discrimination may include behaviours such as stereotyping, isolating, making fun of, mimicking, mocking, or some bullying behaviours especially where they are based on a person's identity, characteristic or group.

5.7 Violence

Workplace violence is any incident where a person is abused, threatened or assaulted in circumstances relating to their work.

Examples of work-related violence include but are not limited to:

- biting, spitting, scratching, hitting, kicking;
- throwing objects;
- pushing, shoving, tripping, grabbing;
- verbal threats;
- armed robbery;
- sexual assault (which includes inappropriate touching or groping); and
- attacking with knives, guns, clubs, or any other weapon.

6. Breach of Policy

All those individuals covered by this policy are expected to adhere to the standards of behaviour contained herein at all times. Any employee who is found to have breached this policy will be disciplined accordingly which may include any appropriate management action including termination of employment.

If a contractor of Council is found to have breached this policy, their contract stands to be terminated, or may not be renewed in future, where the claim against them is substantiated.

If any claim of a breach of this policy is significant, the Chief Executive Officer may choose to suspend the employee or contractor, pending the outcomes of the investigation. Suspension of an employee



Policy

will be considered in line with the provisions of the Local Government (State) Award 2020. Suspension of a contractor will be considered in line with the contract they have signed with Council.

7. Complaint Management

All individuals covered by this policy who believe they have been subject to, or witnesses, behaviours that constitute bullying, harassment, discrimination or violence, should act as quickly as possible to follow the procedures set out below.

7.1 Reporting inappropriate behaviour

Amicable Resolution

Amicable resolution applies only to those behaviours that do not constitute violence. Workplace violence is a far more serious behaviour and will be dealt with either as a formal investigation or by directing any criminal behaviours directly to the police.

In the first instance, the aggrieved employee should, wherever practicable, and if they feel comfortable to do so, attempt to amicably resolve the matter with the employee(s) or manager(s) or otherwise who are alleged to have engaged in bullying, harassing or discriminatory behaviours.

When confronting the issue, the individual should clearly state the offensive behaviour experiences, explain the behaviour is unwelcome and offensive and ask the behaviour to cease.

The person displaying the behaviour may not be aware their behaviour or conduct was causing offence or was unwelcome.

This is not a compulsory part of the complaint procedure, and if an employee does not wish to confront the person directly, or does not feel safe to do so, then they may bypass Amicable Resolution.

Where the alleged behaviour involves the employee's direct manager and it may not be practical for them to directly resolve the matter, they must immediately notify their Director who, with the employee's approval will endeavour to investigate and resolve the matter on an informal basis in the first instance and in accordance with the procedures set out below.

Where the alleged behaviour is that of the CEO the Deputy CEO may be contacted.

Where the alleged behaviour is that of the Mayor or Councillors, the CEO may be contacted.

Informal reporting



Policy

All those covered by this policy must report instances of bullying, harassment or discrimination to their Overseer or Manager. The Manager will handle the complaint as set out below.

Wherever possible the informal process should be used. There are a number of informal options available to resolve the matter:

- If you feel you are unable to approach the individual concerned in order to reach an Amicable Resolution, you may approach your Overseer, Manager or the Human Resource Co-ordinator for assistance. You may also consider taking a support person with you when you do this. Taking early and direct action may resolve the matter to your satisfaction without the need to resort to a formal complaint.
- You may wish to discuss the matter with your Manager or the Human Resource Co-ordinator to facilitate a meeting between you both or individually.

Whilst the informal process is based on open discussion, any complaint made is treated seriously, and nobody will be victimised as a result of the complaint (refer Internal Reporting Policy).

An informal complaint process includes a range of alternatives which may be applied in a flexible manner to address different complaints and in consideration of the relevant circumstances.

The information complaint process is intended to be used for less serious allegations of bullying, harassment or discrimination and instances which do not generally warrant disciplinary action being taken. An individual who is unsure whether to make a formal or informal complain, may make an informal complaint first and decide if they want to escalate the complaint to a formal process after speaking with their Overseer / Manager.

Different options for handing informal complaints may include, but are not limited to:

- the overseer / manager having a conversation with the alleged offender about the behaviour complained of; and / or
- the overseer / manager having a meeting with the individuals concerned to attempt to reach a resolution.

It is expected a File Note of the above actions will be kept on the employee's Personnel File.

If you feel an informal approach would be inappropriate, or these options have been unsatisfactory previously, you should proceed to lodge a formal complaint. Prior to lodging a formal complaint you are encouraged to seek advice from the Human Resource Co-ordinator, or pursue advice through



Policy

alternative channels such as your respective Union, Anti-Discrimination Board, Fair Work Australia or Workcover NSW.

Formal reporting

The formal process is used where:

- a complaint of discrimination, harassment or bullying is not resolved through the informal process;
- the individual feels the informal approach is not appropriate; and / or
- the inappropriate behaviour persists.

To commence a formal complaint, you are expected to lodge a written complaint. The complaint must be lodged with your Manager, or where the complaint is about your Manager, address to your Director or to the Chief Executive Officer (CEO).

Where you are unsure where to address your formal complaint to, or should you require assistance in writing the formal complaint, please contact Council's Human Resource Co-ordinator.

The written complaint should include at minimum:

- The nature of the complaint;
- Reference to dates, times and places (if applicable) in relation to a specific incident(s);
- The names of any witness(es) to the incident(s) should also be included.

Formal investigations may be conducted by the Deputy CEO, the CEO or an external person appointed by the CEO.

Regardless of who or how the investigation is carried out, the investigator will acknowledge the complaint via written notification outlining the process to be following within five working days of receiving the formal complaint. If the investigator feels it is appropriate and in the interests of health and safety of the employees concerned, and/or the efficiency of the investigation process, the investigator may recommend to the CEO that the employee(s) be requested to refrain from attending work for a period of time whilst the investigation is underway. Alternatively, employees may be given different duties or work to perform whilst the investigation is being conducted. Employees who are requested to do either of these will be paid their normal rate of pay during the investigation period.



Policy

Where it becomes apparent the complaint made relates to conduct which constitutes misconduct or otherwise warrants disciplinary action, the investigator will refer the matter to the Chief Executive Officer including recommendations regarding the disciplinary action to be taken.

7.2 Investigating complaints

All formal reports of inappropriate behaviour will be investigated.

Where possible investigations will be handled in-house and co-ordinated by the Director Corporate Services.

Due to the nature of the complaint, or issues arising from an in-house investigation, there may be an identified need to involve external investigators. In this instance the Director Corporate Services will consult with the Chief Executive Officer with a decision made to continue to handle in-house or to outsource the services of an independent investigator.

In-house Investigation

The purpose of the investigation is to gather all pertinent facts to decide whether allegations of inappropriate behaviour are substantiated.

The investigation will involve:

- interviewing the complainant, the accused and any witnesses, all of whom have the right to be accompanied by a support person;
- recording of all interviews. Interviewees will be asked to agree and sign statements made to confirm it is a true and accurate record of the interview; and
- In instances where there is a risk to the health and safety of workers or the security of the organisation, it may be necessary to suspend the respondent, with pay.

The length of time needed to investigate a complaint will vary depending upon the nature of the complaint and the complexity, however, in all cases a response should be made to the complainant within four weeks of the start of the investigation, even if to advise on the progress of the investigation, unless otherwise mutually agreed.

7.3 Investigation Outcomes

Following the investigation, potential outcomes will involve the following:

- The services of an external independent investigator may be sourced.



Policy

- The complaint may not be upheld therefore all records of the matter will be disregarded. The complainant will receive feedback relating to this decision including why the complaint was not upheld.
- The Director of Corporate Services may decide the matter may be resolved through mediation if both parties agree.
- If it has been found that inappropriate behaviour has occurred, the Director of Corporate Services will refer the matter to the CEO to decide upon disciplinary action.
- If it has been found the claim is false and has been made with malicious intent and contains no substance, this will be considered inappropriate behaviour and will be referred to the CEO to decide upon disciplinary action.
- Disciplinary action will be in accordance with the Local Government (State) Award (Award). Each case will be assessed individually following the disciplinary procedures outlined in the Award.

7.4 Follow Up

When a complaint has been resolved informally or through formal procedures, the appropriate Manager should monitor the situation to ensure the inappropriate behaviour has stopped and there has been no subsequent victimisation.

7.5 Confidentiality

Any complaint received either formally or informally will be treated confidentially and in accordance with the Berrigan Shire Council Privacy Management Plan. All involved in the complaint and any subsequent investigations are expected to maintain strict confidentiality. Any breaches in confidentiality will be contrary to Council's Code of Conduct and may lead to disciplinary action.

The person investigating the complaint will endeavour to preserve the confidentiality of the complainant and the person complained of. It may however be necessary to speak with other workers, witnesses, or people involved to determine what happened and to maintain the integrity of the investigation process.

Where potentially unlawful conduct has occurred, Council will alert the appropriate authorities.

All who are involved in the complaint (including the complainant, witnesses, the person of whom the complaint is made, etc) are also under a duty to maintain confidentiality and display a commitment to uphold the integrity of the investigation process.

If anyone being interviewed by an investigator chooses to bring a support person with them to any meetings, they too are bound by confidentiality.



Policy

Gossiping and/or the spreading of rumours as a result of, or in connection with, an investigation process under this policy will not be tolerated under any circumstances and may lead to disciplinary action.

7.6 Outcomes

The outcomes of an informal or formal complaint procedure, will depend on the nature of the complaint, its severity and what is deemed appropriate in the relevant circumstances.

Where the results of an investigation procedure suggest an individual is guilty of bullying, harassment, discrimination or violence, appropriate disciplinary procedures will be followed in line with relevant policies, procedures and guidelines. The disciplinary action will depend on the nature and severity of the behaviour and may include termination of employment, which may include instant dismissal where serious misconduct or unlawful conduct are deemed to have occurred.

Where the complaint involves a contractor or agent of Council and an investigation process reveals that person has engaged in unlawful conduct or other behaviour, which is prohibited by this policy, those concerned may face termination of their contract immediately, or they may not be renewed in the future.

Other action which may be deemed necessary to remedy the behaviour complained of include, but is not limited to:

- providing training to employees regarding the inappropriate behaviours identified;
- requiring employee(s) who have breached this policy to apologise to appropriate person(s);
- adjusting working arrangements where appropriate;
- providing counselling to employees (complainant and the person complained of);
- placing employees on performance improvement plans to ensure improved behaviour occurs; and / or
- providing coaching and mentoring.

7.7 Appeals Procedure (Internal)

If any parties involved in an investigation are unhappy with the outcomes, or the way the complaint handling procedure was managed by their overseer / manager or the Director Corporate Services, they may contact the Chief Executive Officer to discuss their concerns.

Where the CEO is the subject of the complaint and the Mayor or Deputy CEO has investigated the complaint, the aggrieved person may take their complaint to the Fair Work Ombudsman.



Policy

Once notified, the CEO will conduct a review of the procedure followed, the outcome issued and make a final determination on the issue. Once the determination is made, the person who has made the appeal will be notified of the outcome and this determination will be final.

7.8 Further Action

Workers involved in a complaint of inappropriate behaviour including the complainant and the accused are entitled to pursue further courses of action if they believe the process employed by the Council has been unjust.

Options available for further action include contacting the following organisations:

- Fair Work Australia
- Workcover NSW
- Anti-Discrimination Board

7.9 Support

Council has in place the Employee Assistance Program and encourages any employees affected by inappropriate behaviour to contact the providers.

8. RELATED LEGISLATION, POLICIES AND STRATEGIES

8.1 Legislation and external guidelines

Work Health and Safety Act 2011
Work Health and Safety Regulations 2011
Fair Work Act 2009
NSW Anti-Discrimination Act 1977
Disability Discrimination Act 1992
Sex Discrimination Act 1984
Local Government (State) Award 2010

8.2 Council policies and guidelines

Berrigan Shire Council Code of Conduct
Berrigan Shire Council Privacy Management Plan



Policy

Berrigan Shire Council Equal Employment Opportunity Management Plan
Equal Employment Opportunity Policy
Work Health and Safety Policy
Employee Assistance Program Policy
Internal Reporting Policy
Social Media Policy

9. RECORDS MANAGEMENT

All Records must be kept in accordance with Council's Records Management Policy (currently under development) and destroyed as per the General Retention and Disposal Authority: Local Government Records (GA39).

10. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

11. DOCUMENT AVAILABILITY

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

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Berrigan NSW 2712*

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Policy

12. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	21.05.2014	New Policy	Enterprise and Risk Manager
2.0	19.10.2022	Significant Changes made to original document	Chief Executive Officer

DRAFT



8.14 Access to Council Information Policy

Author:	Information & Records Officer, Arpita Khare
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.2. Meet legislative requirements for Council elections, local government and integrated planning and reporting
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	1. DRAFT Policy No.111 - Access to Council Information.docx ↓

Recommendation

That Council adopt the Access to Council Information policy attached to this report.

Purpose

To comply with the Council's obligation under the Government Information (public Access) Act 2009 (GIPA Act), the Council has established an Access to Council Information policy. One of the obligations the Council is required to meet is to adopt an Access to Council Information Policy. The policy must be published on the Council's website.

Summary

Council is required to adopt an Access to Council Information policy to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective.

Background

Council should adopt and maintain an Access to Council Information Policy in line with the GIPA Act. Council has developed this policy to ensure Berrigan Shire Council handle legitimate requests for access to information promptly and members of the public are provided access information, subject to the public interest.

This policy provides the framework and outlines responsibilities to assist members of the public to obtain information held by is as a legally enforceable right under the Government Information (public Access) Act 2009 (GIPA Act) legislation.

This policy details security protections that support an entity to provide timely, reliable and appropriate access to official information.

Access to government information must be appropriately controlled, especially when sharing sensitive or security classified information, or disclosing information outside of government.

All Council officials are expected to comply with the Access to Council Information policy, and the associated procedures in their conduct of the policy, Council staff will prepare associated procedures to provide detailed guidance for Council Official.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Implementation of the policy will help Council to achieve the Delivery Program Objective:

2.1.2 Meet legislative requirements for Council elections, local government and integrated planning and reporting.

Issues and Implications

Policy

This policy interacts with council’s previously adopted Records Management policy and Privacy Management plan.

Financial

The policy allows for council to recover the costs of assessing formal information requests and searching for and providing requested information where the Act allows.

Legal / Statutory

The policy is required by the GIPA Act.

Community Engagement / Communication

Council has an access to information page on it’s website which will include a link to this policy.

Human Resources / Industrial Relations (If applicable)

Information and Records officer will administer the policy under the direction of Deputy CEO.

Risks

- Governance

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

This policy will assist Council official to properly assess information requests and minimise the risk of breaches of the Act.

Options

1. Council adopts the policy as attached - Recommended
 2. Council adopts the policy as attached with amendments.
 3. Council does not adopt the policy and refers back to Council staff for review.
-



Policy

111

ACCESS TO COUNCIL INFORMATION

Strategic Outcome:	Good government	
Policy type	Statutory	
Date of Adoption:	19 October 2022	Minute Number:
Date for Review:	15 October 2026	
Responsible Officer:	Director Corporate Services	
Document Control:	New policy	
Delivery Program Link:	2.1.2 Meet legislative requirements for Council elections, local government and integrated planning and reporting	

1. POLICY STATEMENT

Berrigan Shire Council is required to assist members of the public to obtain information held by is as a legally enforceable right under the *Government Information (Public Access) Act 2009* (GIPA Act) legislation.

Berrigan Shire Council is committed to openness and transparency in carrying out its functions, to publish information in accordance with the GIPA Act, and to disclose information in response to an informal request or formal access application, unless to do so would be contrary to the public interest.

2. PURPOSE

Council should adopt and maintain a Access to Information Policy in line with the GIPA Act. Council has developed this policy to ensure Berrigan Shire Council handle legitimate requests for access to information promptly and members of the public are provided access information, subject to the public interest.

Council is guided by the following principles:

- open and transparent government;
- a presumption in favour of disclosure unless there is an overriding public interest against disclosure;
- a proactive approach to disclosure and dissemination of information;
- timely, unbiased and impartial processing of reasonable requests for information within relevant legislative and business frameworks, at the lowest reasonable cost; and



Policy

- respect for the privacy of individuals.

3. SCOPE

The policy applies to Councillors, Delegated Committees and Council staff of Berrigan Shire Council, any person or organisation seeking Council information.

4. OBJECTIVE

This policy is developed to assist the Council with the Delivery Program Objective:

- 2.1.2 Meet legislative requirements for Council elections, local government and integrated planning and reporting.

5. DEFINITIONS

Council	means Berrigan Shire Council
GIPA Act	means <i>Government Information (Public Access) Act 2009</i>
Open Access (mandatory release)	Under part 3, Division 1 of the <i>Government Information (Public Access) Act 2009</i> all NSW government agencies (including local government) must make publicly available all open access information unless there is an overriding public interest against disclosure of the information.
Public Interest Test	Whilst a document may be considered to be an 'open access' document, not all of the information contained within the document is necessarily 'public' information. The public interest test requires balancing factors for and against disclosure of each piece of government information. That balancing must be undertaken within the context of the GIPA Act.
Informal request for Information	Request to access to information that is not available on council website.
Formal request for Information	Information that is not available any other way may be requested by lodging a Formal Access application.

6. POLICY IMPLEMENTATION

6.1. How is Council information made publicly available?

Information will be made available:

- on Council's website
- via Council's social media



Policy

- in person at the Council Administration Office
- through the public participation processes at Council meetings
- through community engagement and consultation processes
- via Council Meeting agenda and minutes
- by publishing policies, plans and reports on the Council website
- via public registers
- in accordance with the *Government information (Public Access) Act 2009*.

Other legislation may apply to the release of Council records such as, but not limited to, the *Privacy and Personal Information Act 1998 (NSW)* and *Copyright Act 1968*. Council's Access to Information Officer will consider all relevant legislation applicable to any request for information.

Council will release government information in response to an informal request subject to any reasonable conditions as Council thinks fit to impose.

Council will decide by what means information is to be released in response to an informal request.

Council may ask for proof of identity when the applicant is seeking access to their own personal information.

Council may require a formal application (formal requests are also known as 'access applications') to be submitted where the information sought:

- is of sensitive nature;
- contains personal or confidential information about third party that requires consultation; and / or
- would involve an unreasonable amount of time and resources to produce.

It is important to note that the lodging of a formal access application does not automatically guarantee all or part of any information requested will be provided to the applicant.

Prior to lodging a formal access application, applicants should first check if the information being sought is freely available on Council's website or could be accessed through our informal release process.

6.2. Open access information and proactive disclosure

The Council must make its 'open access information' publicly available in accordance with the GIPA Act. Part 3 of the GIPA Act and Schedule 1 of the GIPA Regulation 2009 list the information that is 'open access information'.

Proactive release supports the public's right to information and it demonstrates the Council is actively seeking ways to be transparent and accountable. In compliance with the GIPA Act the Council seeks to identify information to disclose proactively and encourage staff to regularly assess whether the information created and collected in their business areas would be useful to publish proactively.



Policy

6.3. Informal application

Those seeking Council information are encouraged to first request the information through an informal application.

Applicants should be aware:

- information may be provided more promptly through an information application rather than a formal application;
- no fee is payable to view information;
- conditions may be imposed on how the information can be accessed (for example – view only); and
- Council's decision about what information will be provided to you is not reviewable.

An applicant who is not given information in response to an Informal Access to Information Application will be informed of their right to make a Formal Access to Information Application under the GIPA Act

6.4. Formal application

Those seeking Council information are entitled to lodge a formal application, either after an informal application has been refused or initially should they choose.

Applicants should be aware:

- the decision may take longer due to formal requirements and the possible need to consult with third parties;
- a processing fee is payable with application and further processing fee per hour is payable after the first hour of processing;
- no condition can be imposed on the release of information (except Copyright information which is view only); and
- Council's decision as to what information will be provided is reviewable. It can be reviewed internally at Council, or externally by the Information Commissioner or by the Administrative Appeals Tribunal.

Formal requests will be processed within 20 working days and may be extended by up to 15 working days where consultation with a third party is required or if records need to be retrieved.

6.5. Review rights

If an applicant is refused access to information, the applicant has several options including:

- requesting an internal review by the Council;
- requesting a review of the Council decision by the Information and Privacy Commission; or



Policy

- requesting a review of the Council decision by the NSW civil and Administration Tribunal (NCAT)

Applications for internal review must be made within 20 working days of the notice of the decision being given to the applicant.

The applicant is required to pay the set fee when they lodge this request (section 85). There are no processing fees required to be paid by the application in respect of this application (section 87).

The internal review will be decided within 15 days of receipt of a valid request for internal review. This period may be extended by up to 10 working days if consultation is required. The applicant will be notified if an extension of time will be applied (section 86).

Internal reviews are done by making a new decision, as if the original decision had not been made.

6.6. Copyright

Copyright laws apply to this information and applicants are advised to seek the consent of the copyright owner before reproducing the information in any way. Council will only provide copies of copyrighted material upon written consent from the copyright holder or during the assessment phase of a development application.

6.7. Responsibilities

Chief Executive Officer or Director Corporate Services (as the Council's delegated Access to Information Officer) will determine applications under the GIPA Act.

Staff, Councillors and Contractors of the Council are responsible for upholding the principles and processes of the policy as required in their daily work.

7. RELATED LEGISLATION, POLICIES AND STRATEGIES

7.1. Legislation/References

- *Government Information (Public Access) Act 2009*
- *Government Information (Public Access) Regulation 2009*
- *State Records Act 1998*
- *Privacy and Personal Information Protection Act 1998*
- *Health Records and Information Privacy Act 2002*
- *Local Government Act 1993*
- *Copyright Act 1968*



Policy

7.2. Council policies and guidelines

- Governance Policy
- Code of Conduct
- Records Management Policy
- Privacy Management Plan

8. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

9. DOCUMENT AVAILABILITY

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

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10. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	19.10.2022	New Policy document	Information and Records Officer

8.15 Internal Reporting and Protected Disclosures Policy

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	1. 19.10.2022 Internal_Reporting_and_Protected_Disclosures_Policy (1).docx ↓

Recommendation

That the Council

1. Revoke its Internal Reporting Policy adopted on 17 May 2017, and
2. Adopt the Internal Reporting and Protected Disclosures Policy attached as Appendix 1 to this report

Purpose

The Council is required to adopt an Internal Reporting Policy to meet its obligations under the [Public Interest Disclosures Act 1994](#) (PID Act). The Council's existing Internal Reporting Policy was last reviewed in 2017.

Attached is a revised Internal Reporting and Protected Disclosures Policy for consideration by the Council.

Summary

The proposed revised Internal Reporting and Protected Disclosures Policy is based on a new policy template issued by the by the NSW Ombudsman at <https://www.ombo.nsw.gov.au/guidance-for-agencies/handling-public-interest-disclosures-whistleblowing/pid-responsibilities-for-public-authorities>

The policy itself provides guidance to Council officials on their rights and responsibilities when making a **protected disclosure** (or **public interest disclosure**) under the [Public Interest Disclosures Act 1994](#) (PID Act). It does not apply to all reports of wrongdoing (or general reports) made to the Council.

Background

The PID Act applies to all public authorities in NSW – including Councils.

The Act sets in place a system for public officials to report serious wrongdoing in a way that minimises the risk of reprisal.

All public authorities are required to have a policy that explains how they will receive, assess, and handle public interest disclosures (PIDs) under the PID Act.

All public authorities must have an internal reporting policy – sometimes called a Protected Disclosure policy – that explains how disclosures of wrongdoing can be made and how they will be assessed and handled.

Internal reporting policies should explain how reports of wrongdoing made by staff are assessed to determine whether they are PIDs, and how PIDs are investigated and managed. They also should contain information about reporting pathway options, including how to report wrongdoing internally and how to report externally.

The proposed revised policy states:

Berrigan Shire Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- *the report must be about one of the following five categories of serious wrongdoing:*
 - *corrupt conduct;*
 - *maladministration;*
 - *serious and substantial waste of public money;*
 - *breach of the GIPA Act; or*
 - *local government pecuniary interest contravention*
- *the person making the disclosure must honestly believe on reasonable grounds the information shows or tends to show wrongdoing; and*
- *the report must be made to either the Chief Executive Officer or, for reports about the Chief Executive Officer the Mayor, a position nominated in this policy an investigating authority or in limited circumstances to an MP or journalist.*

Reports by staff are not public interest disclosures if they:

- *mostly question the merits of Council policy*
- *are made with the sole or substantial motive of avoiding dismissal or other disciplinary action*

The protections for a disclosure made under the PID Act are very limited and only apply if the disclosure is made following the procedures set down in the Act. It is important all Council officials understand their rights and responsibilities under the Act and this policy

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

The Audit Risk and Improvement Committee were also offered an opportunity to comment on the report at their meeting on 12 October 2022.

Issues and Implications

Council staff are aware the language used in the model policy is not very accessible and quite legalistic – for obvious reasons. On adoption of this policy a series of plain language resources will be made available.

Policy

This is a review of an existing Council policy.

Financial

N/A

Legal / Statutory

Adoption of an Internal Reporting Policy is a statutory obligation for the Council

Community Engagement / Communication

N/A

Human Resources / Industrial Relations (If applicable)

The proposed policy places a series of obligations on the Mayor, the Chief Executive Officer and other Council staff.

It is important that these officials are suitably trained and resourced to meet these obligations.

Risks

1. Legal

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Adoption of this policy will eliminate the risk of Council not meeting its PID Act obligations to have a policy.

Council officials following the policy will mitigate any legal exposure related to protected disclosures

2. Community/Government/Reputation

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The adoption and implementation of this policy will mitigate any consequences related to Council mishandling a protected disclosure.

Options

1. Adopt the proposed revised policy attached as written - **recommended**
2. Adopt the proposed revised policy as attached with amendments
3. No adopt the proposed revised policy and request Council staff to prepare another revision for consideration



Policy

10

INTERNAL REPORTING AND PROTECTED DISCLOSURES POLICY

Strategic Outcome:	Good government	
Policy type	Statutory	
Date of Adoption:	19 October 2022	Minute Number:
Date for Review:	16 October 2024	
Responsible Officer:	Director Corporate Services	
Document Control:	Replaces the Internal Reporting Policy adopted on 17 May 2017	
Delivery Program Link:	2.1.2: Council operations support ethical, transparent and accountable corporate governance.	

1. POLICY STATEMENT

Berrigan Shire Council through resourcing the development, implementation, bi-annual review and endorsement by Council of this policy demonstrates its commitment to creating and maintaining an open working environment in which Councillors, employees, (whether they are full-time, part-time or casual), contractors and consultants are able to raise with confidence concerns regarding actual or suspected unethical, unlawful or undesirable conduct and wrongdoing.

2. PURPOSE

The purpose of this policy is to establish a system for staff and councillors to make protected disclosures without fear of reprisal. The policy sets out who you may make protected disclosures to in Berrigan Shire Council, what may be reported and how protected disclosures will be dealt with by Berrigan Shire Council

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the *Public Interest Disclosures Act 1994* (PID Act).

This policy is just one in the suite of Berrigan Shire Council's complaint handling policies. These policies are linked below.



Policy

The protected disclosures system established under this policy is not intended to be used for staff grievances, which should be raised through the [\[link to grievance policy\]](#). If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to the Council's Human Resources section to be dealt with in accordance with Council's procedures.

3. SCOPE

This policy applies to:

- all council staff and councillors;
- permanent employees, whether full-time or part-time;
- temporary or casual employees;
- consultants;
- individual contractors working for Berrigan Shire Council;
- employees of contractors providing services to Berrigan Shire Council; and
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The policy also applies to public officials of another council or public authority who report wrongdoing relating to Berrigan Shire Council

4. OBJECTIVE

This policy is developed to assist the Council with Delivery Program Objective 2.1.2:

Council operations support ethical, transparent and accountable corporate governance.

5. POLICY IMPLEMENTATION

5.1 Roles and responsibilities

5.1.1 Council staff and Councillors

Staff and councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing;
 - if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality;
 - treat any staff member or person dealing with a report of wrongdoing with courtesy and respect; and
 - respect the rights of any person the subject of reports.
-



Policy

Staff and councillors must not:

- make false or misleading reports of wrongdoing; or
- victimise or harass anyone who has made a report

Additionally, the behaviour of all council staff and councillors involved in the internal reporting process must adhere to Berrigan Shire Council's Code of Conduct. A breach of the code may result in disciplinary action.

5.1.2 Council

Berrigan Shire Council has a responsibility to establish and maintain a working environment that encourages staff and councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

The Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, the Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. The Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

The Council must report on our obligations under the *Public Interest Disclosure Act* (PID Act) and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.

To ensure the Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

5.1.3 Chief Executive Officer

The Chief Executive Officer has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture by ensuring the Council complies with the PID Act. The Chief Executive Officer can receive reports from staff and councillors and has a responsibility to:

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with;
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures;
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report;



Policy

- make decisions following any investigation or appoint an appropriate decision-maker;
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified;
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC); and
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

5.1.4 Disclosures Coordinator

The Disclosures Coordinator has a central role in the Council's internal reporting system. The Disclosures Coordinator may receive and assess reports, and is the primary point of contact in the Berrigan Shire Council for the reporter. The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the Chief Executive Officer);
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures;
- coordinate the Council's response to a report;
- acknowledge reports and provide updates and feedback to the reporter;
- assess whether it is possible and appropriate to keep the reporter's identity confidential;
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified;
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report;
- ensure Council complies with the PID Act; and
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act

5.1.5 Disclosures Officers

Disclosures officers are additional points of contact within the internal reporting system. They may provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors to make reports.

Disclosures officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter;
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace;



Policy

- discuss with the reporter any concerns they may have about reprisal or workplace conflict; and
- carry out preliminary assessment and forward reports to the Disclosures Coordinator or Chief Executive Officer for full assessment.

5.1.6 Mayor

The Mayor can receive reports from staff and councillors about the Chief Executive Officer. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with;
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures;
- refer reports to an investigating authority, where appropriate;
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report;
- refer actual or suspected corrupt conduct to the ICAC; and
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

5.1.7 Supervisors and line managers

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

- encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do;
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy;
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report; and
- notify the Disclosures Coordinator or Chief Executive Officer immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the Chief Executive Officer, notify the Mayor.



Policy

5.2 What should be reported?

You should report any suspected wrongdoing within Berrigan Shire Council, or any activities or incidents you see within the Council you believe are wrong.

Reports about five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what may be reported under the PID Act can be found in the NSW Ombudsman's *Guideline B2: What should be reported?*

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination; or
- practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, the Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

Council policies relating to reports that are not protected disclosures include:

- Discrimination, Workplace Bullying and Harassment Policy
- Fraud Control Policy
- Work Health and Safety Policy
- Customer Request Policy
- Right to Information Policy (in development)

5.2.1 Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this may include:

- the improper use of knowledge, power or position for personal gain or the advantage of others;
- acting dishonestly or unfairly, or breaching public trust; or
- a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.



Policy

5.2.2 Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this may include:

- making a decision and/or taking action that is unlawful; or
- refusing to grant an approval for reasons not related to the merits of their application.

5.2.3 Serious and substantial waste

Serious and substantial waste is the uneconomical, inefficient, or ineffective use of resources that may result in losing or wasting public money.

For example, this may include:

- not following a competitive tendering process for a large-scale contract; or
- having bad or no processes in place for a system involving large amounts of public funds.

5.2.4 Breach of the GIPA Act

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

For example, this may include:

- destroying, concealing or altering records to prevent them from being released;
- knowingly making decisions contrary to the legislation; or
- directing another person to make a decision contrary to the legislation.

5.2.5 Pecuniary interest convention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council Committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this may include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship; or



Policy

- a councillor participating in consideration of a DA for a property they or their family have an interest in.

5.3 Assessment of reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether the report will be treated as a public interest disclosure.

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

5.3.1 Pecuniary interest convention

5.4 When will a report be treated as a public interest disclosure?

Berrigan Shire Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing:
 - corrupt conduct;
 - maladministration;
 - serious and substantial waste of public money;
 - breach of the GIPA Act; or
 - local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds the information shows or tends to show wrongdoing; and
- the report must be made to either the Chief Executive Officer or, for reports about the Chief Executive Officer the Mayor, a position nominated in this policy (see section 6.5.1), an investigating authority or in limited circumstances to an MP or journalist (see section 6.5.3).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of Council policy (see section 5.13)
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 5.13)



Policy

5.5 Who can receive a report?

Staff and councillors are encouraged to report wrongdoing within the Council, but internal reporting is not your only option.

You can also make a public interest disclosure to:

- an investigating authority;
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

5.5.1 Inside Council

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

The following positions are the only people within the Berrigan Shire Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

If your report involves a councillor, you should make it to the Chief Executive Officer. If your report relates to the Chief Executive Officer, you should make it to the Mayor.

Chief Executive Officer

Karina Ewer

Email: karinae@berriganshire.nsw.gov.au

Phone: 0456 802 006

Mayor (for reports about the Chief Executive Officer only)

Cr Matt Hannan

Email: matthew.hannan@berriganshire.nsw.gov.au

Phone: 0409 893 142

Disclosures Coordinator

Matt Hansen

Email: matthewh@berriganshire.nsw.gov.au

Phone: 0427 635 396



Policy

Disclosures Officers

Sam Armer

Email: sama@berriganshire.nsw.gov.au

Phone: 0407 571 302

Michelle Koopman

Email: michellek@berriganshire.nsw.gov.au

Phone: 0418 466 720

5.5.2 Investigating authorities

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

The relevant investigating authorities for Berrigan Shire Council are:

- the Independent Commission Against Corruption (ICAC) — for disclosures about corrupt conduct
- the Ombudsman — for disclosures about maladministration
- the Auditor-General — for disclosures about serious and substantial waste
- the Information Commissioner — for disclosures about a breach of the GIPA Act
- the Office of Local Government — for disclosures about local councils

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware the investigating authority may well discuss any such reports with the Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff or councillors who report wrongdoing to an investigating authority, if we are made aware this has occurred

5.5.3 Members of parliament or journalists

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

- the Chief Executive Officer;
- a person nominated in this policy, including the Mayor for reports about the Chief Executive Officer; or
- an investigating authority.

Also, the Council or the investigating authority that received your initial report must have either:



Policy

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

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove you have reasonable grounds for believing the disclosure is substantially true and complaint is in fact substantially true (see section 5.13).

5.5.4 Other external reporting

If you report wrongdoing to a person or authority not listed above or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or *our* code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

5.6 **How to make a report**

You may report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. This may be in the form of a letter or email.

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

5.7 **Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by the Council it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.



Policy

5.8 Feedback to staff who report wrongdoing

Staff and councillors who report wrongdoing will be told what is happening in response to their report.

5.8.1 Acknowledgment

When you make a report, Council will contact you to confirm your report has been received and to advise:

- the timeframe within which you will receive further updates; and
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have;

After a decision is made about how your report will be dealt with, Council will send you an acknowledgment letter, providing:

- information about the action to be taken in response to your report;
- the likely timeframes for any investigation or other action; and
- information about the internal and external resources or services available you can access for support.

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act, but the report was made under a statutory or legal obligation, or incidental to the performance of your day-to-day functions, you will not receive an acknowledgement letter or a copy of this policy.

5.8.2 Progress update

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- information about the progress of the investigation or other enquiries and reasons for any delay;
- advice of any decision by Council not to proceed with the matter; and / or
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

5.8.3 Feedback

Once the matter has been finalised you will be given:



Policy

- enough information to show adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem(s) identified; and
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

5.9 Maintaining confidentiality

Berrigan Shire Council realises reporters may want their identity and the fact they have made a report to remain confidential. Confidentiality may help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important you only discuss your report with those responsible for dealing with it. Responsible Officers include the Disclosures Coordinator and the Chief Executive Officer, or in the case of a report about the Chief Executive Officer, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be we can protect you from any reprisal.

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

5.10 Managing the risk of reprisal and workplace conflict

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

Depending on the circumstances, the Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace;
 - transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified; or
 - grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.
-



Policy

These courses of action are not punishment and will only be taken in consultation with the reporter.

5.11 Protection against reprisal

The Council will not tolerate any reprisal against staff or councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made, or may have made, a public interest disclosure, even if they did not.

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

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

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines and may be required to pay the victim damages for any loss suffered because of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's code of conduct which may result in *disciplinary action*. In the case of councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

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

5.11.1 Responding to allegations of reprisal

If you believe detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator, or the Chief Executive Officer immediately. In the case of an allegation of reprisal by the Chief Executive Officer, you may alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the Chief Executive Officer if they suspect reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them.



Policy

In the case of an allegation of reprisal by the Chief Executive Officer, the Mayor may alternatively be notified.

If the Council becomes aware of or suspects reprisal is being or has been taken against a person who has made a disclosure, the Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue;
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff;
- if it is established reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter;
- take appropriate disciplinary action against anyone proven to have taken, or threatened any action in reprisal for making a disclosure;
- refer any breach of Part 8 of the council's code of conduct (reprisal action) by a councillor or the Chief Executive Officer to the Office of Local Government and
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

5.11.2 Protection against legal action

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

5.12 **Support for those reporting wrongdoing**

The Council will make sure staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.



Policy

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

The Council offers an Employee Assistance Program available to all Council officials. Information on how to access this program will be made available to all.

5.13 Sanctions for making false or misleading statements

It is important all staff and councillors are aware it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. The Council will not support staff or councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the code of conduct resulting in disciplinary action. In the case of councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

5.14 The rights of persons the subject of a report

Berrigan Shire Council is committed to ensuring staff or councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time, you will be:

- advised of the details of the allegation;
- advised of your rights and obligations under the relevant related policies and procedures;
- kept informed about the progress of any investigation;
- given a reasonable opportunity to respond to any allegation made against you; and
- told the outcome of any investigation, including any decision made about whether further action will be taken against you.

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

5.15 More information

Council will ensure that information around public interest disclosures is readily available for Council officials.

Staff may also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.



Policy

6. RELATED LEGISLATION, POLICIES AND STRATEGIES

6.1 Legislation

- *Local Government Act 1993*
- *Public Interest Disclosures Act 1994*
- *Government Information (Public Access) Act 2009*
- *Privacy and Personal Information Protection Act 1998*
- *Work Health and Safety Act 2001*
- *Independent Commission Against Corruption Act 1988*
- *Ombudsman Act 1974*
- [NSW Ombudsman – Assessing and Investigating Disclosures - Guidelines](#)

6.2 Council policies and guidelines

- Governance Policy
- Code of Conduct
- Workforce Development Plan
- Statement of Business Ethics
- Privacy Management Plan
- Customer Request Policy
- Right to Information Policy (in development)
- Staff and Councillors Interaction Policy
- Employee Assistance Program Policy
- Discrimination, Workplace Bullying and Harassment Policy
- Fraud Control Policy
- Work Health and Safety Policy

All Records must be kept in accordance with Council's Records Management Policy (currently under development) and destroyed as per the General Retention and Disposal Authority: Local Government Records (GA39).

7. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every two (2) years as per Council's Governance Policy (currently under development) or as required.

For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

8. DOCUMENT AVAILABILITY



Policy

A number of legislative instruments require Councils to have the policy available for inspection at Council's principal office (i.e. Policies made under Part 3, of the Local Government Act 1993). Each document should therefore state the ways in which the policy is available including any relevant fees and charges for access to such policy. An example of the required statement is provided below:

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

Berrigan Shire Council
56 Chanter Street
BERRIGAN NSW 2712

Ph: 03 5888 5100

Email: mail@berriganshire.nsw.gov.au

9. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	17/05/2017	New Policy document	Director Corporate Services
2.0	19/10/2022	New model policy issued	Deputy CEO

APPENDICES



Policy

Appendix 1

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

[List only the investigating authorities relevant to your council. All contact details were correct as at publication.]

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman

Phone: 02 9286 1000
Toll free (outside Sydney metro): 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street, Sydney NSW 2000

For disclosures about serious and substantial waste:

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100
Facsimile: 02 9275 7200
Email: mail@audit.nsw.gov.au
Web: www.audit.nsw.gov.au
Address: Level 19, Darling Park Tower, 201 Sussex Street, Sydney NSW 2000

For disclosures about local councils:

Office of Local Government

Phone: 02 4428 4100
Tel. typewriter (TTY): 02 4428 4209
Facsimile: 02 4428 4199
Email: olg@olg.nsw.gov.au
Web: www.olg.nsw.gov.au
Address: 5 O'Keefe Avenue, Nowra, NSW 2541

For disclosures about police misconduct:

Chief Commissioner, Law Enforcement Conduct Commission

Toll free: 1800 657 079
Facsimile: 02 9321 6700
Email: contactus@lecc.nsw.gov.au
Web: <https://www.lecc.nsw.gov.au/contact-us>
Address: Level 3, 111 Elizabeth Street, Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information & Privacy Commissioner

Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 17, 201 Elizabeth Street, Sydney NSW 2000



Policy

For disclosures about the Law Enforcement
Conduct Commission:

Inspector of the Law Enforcement Conduct
Commission

Phone: 02 9228 3023

GPO Box 5341

Sydney NSW 2001

Email: olecc_executive@olecc.nsw.gov.au

Web: <https://www.olecc.nsw.gov.au>

For disclosures about the Independent
Commission Against Corruption (ICAC)

Inspector of the Independent Commission Against
Corruption

Phone: 02 9228 3023

GPO Box 5341

Sydney NSW 2001

E: oiicac_executive@oiicac.nsw.gov.au

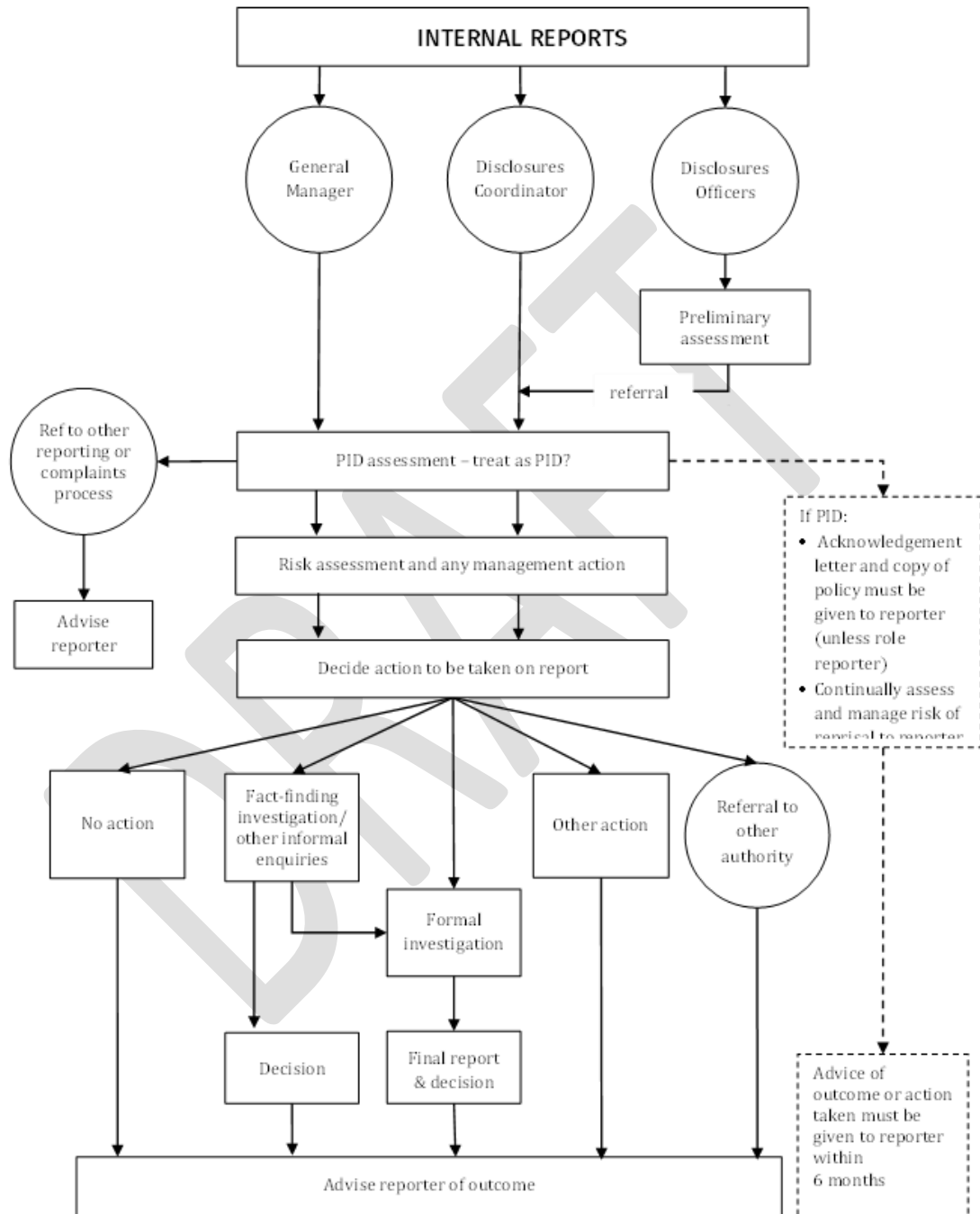
W: <https://www.oiicac.nsw.gov.au/contact-the-inspector>

DRAFT



Policy

Appendix 2



8.16 Social Media Policy - Request for Minor Change

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.2. Meet legislative requirements for Council elections, local government and integrated planning and reporting
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council Asset Owner: As the owner (or custodian, such as through a Trust Deed) of an asset (road, footpath, building, playground etc) the Council has a responsibility for capital, operating and maintenance costs
Appendices:	Nil

Recommendation

Council decision is sought

Purpose

The purpose of this report is to seek Council's guidance with regards to allowing social media comments to remain "switched on" during periods when Social Media accounts are not being monitored.

Summary

The requirements to actively monitor and review comments posted to its Social Media accounts has become imperative due to the findings of the Voller case which found an owner of a Social Media site whose site retained defamatory comments on it, was a publisher of those comments and therefore liable of defamation.

Background

At Council's July 2022 Ordinary Council meeting, Council endorsed the Social Media Review I undertook and adopted the new Social Media Policy. As per the findings of the review, the following clause was included in the Social Media Policy:

6.5 Hours of Operation

Berrigan Shire Council's social media profiles are monitored between 8.30am and 5.00pm during Council business hours on weekdays only (except for emergencies).

Council will respond to relevant questions posed on our social media sites as per our Customer Service Charter.

Outside of Council's operating hours, comments on Council posts will be turned off with a message noting same during the periods social media sites cannot be monitored.

Staff have since expressed concern that turning off social media comments out of ours will severely restrict community engagement, particularly on matters Council need and encourage community engagement on.

To that end I have sought and received the following legal advice as to whether or not we should allow comments to be turned on at all times.

Karina

In response to your request for advice relating to Social Media, we make the following comments:

- *The Voller^[1] decision shows that Australians who maintain a social media page may be exposed to defamation liability for defamatory posts that others make on their page – even if they are not aware of the posts.*
- *With the recent change of government, Commonwealth legislation remains unsettled on the regulation of social media 'trolling'*
- *In NSW the Defamation Act 2005 (NSW), the Defamation Amendment Act 2020 (NSW), and the Privacy and Personal Information Protection Act 1988 are the key pieces of legislation.*
- *For the purposes of defamation, Berrigan Shire (as the account holder) may be considered the publisher of comments left on your posts by third parties and could be exposed to liability because of those comments.*
- *Under the Defamation Act 2005, material published that identifies a person (not necessarily by name) and meets any of the following criteria may be considered defamatory:*
 - *Exposes a person to ridicule,*
 - *Lowers the person's reputation in the eyes of members of the community*

^[1] *Fairfax Media Publications v Voller* [2021] HCA 27.

- Causes people to shun or avoid the person, or
- Inquires the person's professional reputation.
- To reduce the risk of exposure to liability, Berrigan Shire should consider implementing the following measures:
 - Establish community guidelines. Berrigan Council will be responsible for determining and advising how active the social media moderation will be. Refer to NSW Government's Facebook guidelines as an example.
 - Monitor your channels. Berrigan Shire should establish and advise the frequency that you will check (and respond to) your social media channels. In the case of Berrigan Shire's page, this could be only every couple of days, but if it is this should be provided in your community guidelines.
 - Using a profanity filter. A page admin can turn on and manage the profanity filter and/or chose certain words to block from comments.
- An example of a guideline that Berrigan Shire might look to publish on their Facebook page (in the **About** section) is provided here:

Berrigan Shire Council will not permit content on its social media accounts which; includes language or remarks that are racist, sexist, abusive, obscene or otherwise offensive; is defamatory towards a member of staff, Mayor, Councillor, individual or group within the community; which contains information that is inaccurate, deceptive or misleading; is potentially unlawful or violates the intellectual property right of another; includes advertising materials or any content that sells any good or services, any surveys, contents, chain letters, spam or other unsolicited commercial messages.

Council monitors its social media account during ordinary business hours and reserves the right to remove inappropriate material and block users who breach any of these guidelines.

- It is important to note that the uniform defamation laws and model provisions are presently being reviewed with a view to addressing the liability of internet intermediaries and third-party content. The review in NSW is into its second stage and a Consultation Draft (August 2022) can be found via the following link":
www.justice.nsw.gov.au/justicepolicy/Documents/review-model-defamation-provisions/background-paper--for-draft-part-a-model-defamation-amendment-provisions-2022.pdf

Response to your Question

We note your question regarding the inability to monitor social media posts out of hours. Whilst there may be an argument that Council should only be responsible and required to act during ordinary business hours, there is also a contrary argument that a defamatory post made out of hours could still cause the same reputational damage to an individual. The issue then becomes whether Council would be held liable for publishing defamatory material

in circumstances where it is posted by a 3rd party out of hours and not removed until a later time/day.

Whilst this position may become clearer with evolving legislation, in the current uncertain environment our view is that Council acting reasonably and monitoring its accounts during ordinary business hours is a sufficient response. By stating that Council only monitors the accounts during ordinary business hours within its policy, and on accounts themselves (where possible), it should provide sufficient protection to Council.

However, our advice above is a risk minimisation response to the issue. If you wish to eliminate the risk entirely (or minimise it further), then obviously the shutting down of the accounts when not actively being monitored is a more proactive response to the present issue until clearer legislation and guidance is enacted.

We also raise the question as to whether your insurer has a position on this question? I'm uncertain whether Council's insurance provides coverage for defamation, but if so, it might be worth posing the same question to your broker to seek guidance on what steps Council should undertake to ensure that coverage is provided to a claim.

Happy to discuss further, if required.

Regards

The question was then posed to our Insurer as to whether Council would be covered by insurance should a defamatory comment be posted out of hours and Council do not respond until the next working day. The response is as follows:

Michelle,

A couple of take-out notes re: our conversation.

- Libel, slander and defamation must involve financial loss / harm to an individual. A Company cannot be subject to defamation claims.*
- If Council have established a WebSite, it would also be prudent to (i) note a disclaimer about WebSite monitoring activities by Council (2) warn against unsavoury comments added to the Site and (3) initiate a Working Policy or Procedure document on what Council regularly does, and/or doesn't do. This Policy could validate what proactive measures you have in place to guard against inappropriate Social Media content.*
- Indemnity would respond where "negligent acts" (made by Council) were proven. Negligence must be fortuitous (accidental, not by design, not intended, not criminal and not vexatious). It could also be the case that Council had not previously been placed on notice or prior warned that an inappropriate comment has landed on the Site It's what Council does next that would assess your degree of negligence, as I'll explain below :*

Scenario # 1 *A disgruntled person writes something on Facebook, and Council did not have any opportunity to mitigate or delete the Post (this is where the Policy or Procedure Document would substantiate Council actions in managing the content). This would then be your essential Working Document, and as I've always stated in the past Courts don't usually judge on what*

you have done (so much so), it generally comes down to what you haven't done. Proactivity is always the best preventative.

Scenario # 2 *A Post was uploaded and several complaints started to come in, and Council choose to do nothing. That non-responsive action would fall into two distinct categories : (a) whilst unfortunate - simple negligence won't really exist any longer (b) If repeated and continuous exposure were to occur and zero action taken by Council – this could be deemed as either gross or criminal negligence, and Council would not be indemnified by the C & O Scheme coverage. Obviously – the failure to act takes it out of the unintentional and sheer innocence arena.*

This may help to pave the way for understanding how Council's Indemnity Coverage would respond.

In short Council are covered under our Councillors and Officers Liability policy with the deductible being depended on the claim (in the vicinity of \$2,500 to \$15,000). Coverage is reliant upon Council having controls in place, including policies and procedures that outline how we intend to monitor our Social Media sites. It would seem more likely from an insurance perspective that Council would be held liable if we were not monitoring outside of business hours as this may be deemed unreasonable. That would only hold however is Council were defending a claim where they claimant could prove they had suffered financial loss due to our lack of action.

There is therefore a dissonance between Council wanting to actively engage with the community and the risk presented by defamation and the current uncertainty surrounding developing legislation. The matter is being brought to Council to fully understand the risk Council is willing to take in this space.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Library Strategy 2021-2025

Strategy for the Visitor Economy 2022-2026

Sports Tourism Strategy 2021

Communication Strategy 2021-2027

Social Media Review

Community Strategic Plan 2032

Issues and Implications

Turning off comments outside of normal working hours, will reduce the times when the community is able to engage actively with Council. The highest activity times on social media is generally after 6pm each evening and on weekends (all of which do not line up with Council's working hours).

Should a defamatory comment be posted during that time it is unlikely any staff will see the comment and have the opportunity to respond to it in a timely manner.

Policy

Social Media Policy

Financial

Nil

Legal / Statutory

Defamation Act 2005

Defamation Amendment Act 2020

Privacy and Personal Information Protection Act 1988

No specific legislation relating to social media exists at the moment though some legislation is in development and has the potential to change the current landscape.

Community Engagement / Communication

Staff concern is that turning off social media posts outside of working hours will have an adverse effect on Council’s ability to actively engage with the community.

Human Resources / Industrial Relations (If applicable)

Nil

Risks

A number of risk currently exist with regard to Social Media and exposure to defamation litigation from posts on Council owned Social Media sites. These are considered below.

1. Financial

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Dylan Voller was awarded an undisclosed payout as a result of the defamation case he took against the Sydney Morning Herald, the Australian, the Centralian Advocate, Sky News Australia and the Bolt Report. Given recent history has seen settlements between \$35,000 (Peter Dutton) and \$715,000 (John Barilaro) the assessment has been undertaken at the higher end of recent cases.

Council’s Risk Appetite in this area is primarily Resistant with a secondary appetite of Accept.

2. Reputation and Media

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High

D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

It would be expected a defamation case against the Council would receive significant media coverage as it would be a test of the response of Local Government to defamation management.

Council’s Risk Appetite in this area is primarily Accept.

3. Legal and Public Liability

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

Defamation action would involve a lengthy investigation, probable prosecution and significant financial impacts.

Council’s Risk Appetite in this area is Primarily Resistant with a secondary appetite of Avoid.

Options

1. Retain clause 6.5 of the Social Media Policy as it is currently worded, which includes requiring comments to be turned off outside of normal working hours.
2. Remove the sentence in clause 6.5 requiring Council to turn comments off outside of normal working hours.

Conclusions

Staff will keep a track of legislative changes and ensure Council is notified as further clarification of how defamation management will be managed as that information is provided.

8.17 Tocumwal - Town Beach Caretaker

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.2. Meet legislative requirements for Council elections, local government and integrated planning and reporting
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	Nil

Recommendation

That the Council, noting the High Risk finding in the Tocumwal Foreshore Reserve Internal Audit report:

1. Temporarily revoke the delegation to the Tocumwal Foreshore Committee of Management for care, control and management of the Town Beach Camping Area portion of the Tocumwal Foreshore Reserve
2. Directly manage the Town Beach Camping Area using a combination of paid employees and contract services as determined by the Chief Executive Officer.
3. Review these actions on completion of the formal review of the Town Beach area currently underway

Purpose

The purpose of this report is to seek Council's direction with regards to the management of Tocumwal Town Beach should flooding recede in time for the summer high season.

Summary

The previous caretaker of the Town Beach area retired in September 2022. Council put out an Expression of Interest during July / August 2022 and received no applications to take up the caretaker roll. Since that time, the site has been flooded however and the urgency of making a decision regards the management of the site has been put on hold.

As per the Background information provided below, there are a number of issues currently outstanding with regards to the future management of the Town Beach site.

Council has also received the draft Audit Report into the functioning of the Tocumwal Foreshore Committee of Management as a section 355 Committee of Council. At the time of writing that report will be tabled at the Audit, Risk and Improvement Committee (ARIC) meeting to be held on 12 October 2022. The minutes of the ARIC meeting will be provided as a late report to this meeting.

Background

Council has a number of motions on its books at the moment concerning Town Beach, the Tocumwal Foreshore Crown Land Parcel and the Tocumwal Foreshore Committee of Management. All are intrinsically linked and require consideration as part of the whole.

Motions include:

February 2022 Ordinary Council meeting

10.1 Tocumwal Town Beach

- 56 **Resolved** Crs Hatty and Taylor that the Council direct the CEO to undertake a formal review regarding the future use and management of the Tocumwal Town Beach area.

Staff have been working with the Surveyor and Crown Lands to redefine the boundary of the Tocumwal Foreshore Crown Land parcel so that further negotiations regarding the use and management of the Town Beach site is possible. A full and formal review of the Town Beach area is not possible until this work is complete.

March 2022 Ordinary Council meeting

9.2 Engagement Strategy: Town Beach

- 82 **Resolved** Cr Hatty and Cr Cornwell McKean that the Council adopt the Tocumwal Town Beach Engagement Strategy attached as "Appendix 9.2-A".

The engagement strategy include the need for a short survey to be undertaken to allow Tocumwal residents and business owners the opportunity to voice how they would like to see Town Beach utilised in the future. The result of that survey was overwhelmingly that the township would like camping at the Town Beach site to continue but that how it is managed and its impacts should change. The motion regarding the outcome of the survey is included below from the May 2022 Ordinary Council meeting.

8.6 Town Beach Survey Results

- 131 **Resolved** Cr Hatty and Cr Reynoldson that the Council:
1. Adopt the results of this poll, including the publishing of the survey results as outlined in the report;
 2. Direct Council Officers to commence a review of the Tocumwal Foreshore Plan of Management with Crown Lands and the Tocumwal Foreshore Committee of Management;
 3. Direct this review investigate options for the retention of Town Beach as an affordable camp site while ensuring that approved camp sites do not encroach or limit beach access, nor negatively impact native animals and or the natural environment; and
 4. Direct staff to undertake public consultation once proposed options for the site are prepared

I am unable to proceed with developing concept plans (as per dot point 3 and 4) as to what the site might look like until the changes to the Crown Land parcel boundaries are finalised as per the above. The Tocumwal Foreshore Plan of Management (dot point 2) can also not commence until the new boundaries are confirmed.

Relevance to Community Strategic Plan and Other Strategies / Masterplans / Studies

- Tocumwal Foreshore Masterplan
- Tocumwal Town Masterplan
- Guide to Operations – Section 355 Committees

Issues and Implications

There are concerns that implementing any arrangement (casual or contract) for a Caretaker at the Town Beach site might make any changes needed to the site difficult. To that end staff believe it might be advisable to appoint a security contractor for the interim period until other matters at the Town Beach site can be finalised.

Financial

Quotes are needed to understand what a security contractor or the like might cost. Staff are currently investigating options and hope to have some information by the time of the Council meeting.

Legal / Statutory

Some concerns have been raised in the Audit Report that may require attention under this section.

Community Engagement / Communication

Nil

Human Resources / Industrial Relations (If applicable)

If Council are unable to find a suitable interim contractor, there may be impacts to our staff to manage the site and this would come in the form of overtime.

Risks

1. Governance

	Consequence				
Likelihood	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

When considering the outcomes of the draft Audit report and taking into account Council have not yet had time to complete the redesign of the Town Beach area, the governance risks of managing money and the number of camp sites is High. It has been assessed as High because the risk is

considered a serious statutory requirement breaches and the likelihood has been assessed as Almost Certain as we know on many occasions the campsite numbers have been breached in the past. The Audit report also states concerns around environmental management and financial management practices that Council are currently exposed to.

2. Community

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

If Council does not allow camping at the Town Beach area during the Christmas period, and the water levels are low enough to allow it, then considering the beach has been closed since April, it is felt the community would be very likely to provide negative feedback to Council and raise concerns within the community regards the loss of income to businesses and the Shire.

Options

- Given the risk exposure, Council should consider temporarily revoking the delegation to the Committee of Management for the town beach camping area – to allow Council to directly manage its own risk exposure.
- Require Council staff to investigate and engage an interim caretaker through a company such as a security company that would be able to check the Town Beach site on a regular basis without requiring overtime and out of hours payments by Council
- Require Council staff to investigate the engagement of a short term casual employee to manage the site through the Christmas period and until the new arrangements for the Town Beach camping area are finalised.
- Close Town Beach until the new arrangements for the Town Beach camping area are finalised.

Conclusions

Town Beach will be a difficult area for Council to manage into the future until the above reports and management plans are finalised. These will take time unfortunately though Council staff continue to work with Crown Lands to establish the new boundaries of the Crown Land parcel so that each of the other stages may be possible.

8.18 StateCover Report on Berrigan Shire Council

Author:	Enterprise Risk Manager, Michelle Koopman
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Regulator: The Council has legislated roles in a range of areas which it is required to fund from its own funds (apart from fees for cost recovery, government grants etc)
Appendices:	<ol style="list-style-type: none">1. 2022 StateCover - Berrigan Chief Executive Report.pdf (under separate cover)2. 2022 StateCover Audit Report Berrigan Shire Council Report.pdf (under separate cover)

Recommendation

That Council note the results from the StateCover review of Council's performance in 2021/22, and in the StateCover Audit.

Purpose

The enclosed reports outline Council's performance in relation to claims and claims management during 2021/22, and Council's self-assessment against industry benchmarks for 2021/22.

These reports are designed to provide a snapshot of how Council is performing on a scale from Poor through to Good, and how we are performing in comparison to previous years, other Councils in our region, and the State.

Summary

Berrigan Chief Executive Report

This report outlines the performance the StateCover Mutual, and delves into Council's claims history, and achievements with return to work.

In 2021/22 Council had four claims which consisted of hearing loss (historical claim), mental stress, slip, trip and fall, and body stress. These were claims notifications so not all resulted in a lost time injury or had an impact on Council's workers compensation premium.

The injury reporting timeframe outlined on page 24 of the report is a concern for our workplace. Despite regular reinforcement at meetings, we still struggle to achieve compliance with the 48 hours notification requirement to StateCover for incidents. We will continue to try and achieve this.

Unfortunately for Council, we experienced four significant workers compensation claims from 2020-2021, and these resulted in lost time and were long term claims that drastically impacted our ability to get these workers back to work due to the types of injury they experienced. These claims are why we have 0% for return to work. Their injuries required significant recovery time which exceeded the reporting timeframes. They are also the claims that have impacted severely on our premium. We are currently at the maximum premium payable for our workplace size and type.

This will improve. As you can see on the claims trend on page 30 of the report, our claims have gradually declined, and so will our premium.

2022 WHS Self Audit Report

The StateCover Self Audit assesses Council against WHS system requirements, and key priority areas that relate to local government. These are considered best practices elements and take into consideration Council's documented system and implemented system.

Overall, Council performed quite well in the documented system with 86.1% achieved, this does not always permeate into an implemented system – so we may say this is what we do, which is not necessarily the case in practice, which is why we only scored 63%, bringing our average score to 68.3%.

In the Key Priority areas Council performed quite well achieving 85.6%.

Our overall score was 77% and quite good in comparison to our neighbouring Councils, and the State average.

Background

Historically, Council has performed well with claims, and we have not experienced that many.

Our performance in the Self-Audit fluctuates with changes in policy and in the type of questions StateCover ask. Generally, we do well.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Our claims management, and improvement in our audit results directly relates to improvements in our governance activities, and our Workforce Development Plan.

Issues and Implications

The claims experiences and Council's audit results reflect a need to make changes, particularly with the management of our staff.

Policy

N/A

Financial

N/A

Legal / Statutory

N/A

Community Engagement / Communication

N/A

Human Resources / Industrial Relations (If applicable)

Council’s workforce is ageing, and with that, particularly around manual handling, comes increased risk of injury. We need to utilise the information in these reports to start strategies around the management of our workforce and the tasks currently undertaken.

Risks

1. Work Health and Safety

Likelihood	Consequence				
	1	2	3	4	5
A	Medium	High	High	Very High	Very High
B	Medium	Medium	High	High	Very High
C	Low	Medium	High	High	High
D	Low	Low	Medium	Medium	High
E	Low	Low	Medium	Medium	High

The likelihood of continued injuries is Almost Certain, with the consequences considered High, with serious injury and long-term recovery.

Options

1. Conduct manual handling risk assessments for outdoor roles
2. Investigate more mechanical aids for workers to reduce manual handling
3. Reconfigure work requirements for older workers

Conclusions

Whilst the four major injuries in 2020/21 were unprecedented for Council, it has highlighted the flow on effects of these injuries have, not only for the individual and their ongoing health and wellbeing, but the financial implications for Council.

These reports will assist Council in planning for changes and improvements.

8.19 Development Application 166-22-DA-D5 – Residential Storage Shed – 4 Murray Grove Barooga

- Author:** Manager Building & Planning, Matthew Miller
- Strategic Outcome:** 1. Sustainable natural and built landscapes
- Strategic Objective:** 1.1. Support sustainable use of our natural resources and built landscapes
- Delivery Program:** 1.1.1. Coordinate strategic land-use planning
1.1.3. Enhance the visual amenity, heritage and liveability of our communities
- Council's Role:** **No Role:** The Council chooses not to have a role in relation to a particular service or activity
- Appendices:**
1. Habitat Planning - Request to encroach buffer - 4 Murray Street, Barooga.pdf (under separate cover)
 2. 74 Quicks Road Response.pdf (under separate cover)
 3. 4 Murray Grove, Barooga - Rationale for easement encroachment.pdf (under separate cover)
 4. DA Assessment Report - 166-22-DA-D1.pdf (under separate cover)
 5. Development Plans (site plan).pdf (under separate cover)
 6. Local Shed Solutions Drawing NO LSS100 Sheet 1.pdf (under separate cover)

Recommendation

That Council approve Development Application 166/22/DA/D5 for a Residential Storage Shed, subject to the following conditions:

1. Approved Plans

The development shall be implemented substantially in accordance with the details set out on the approved plans 4 Murray Grove Site Plan amended 17.08.2022 Local Shed Solutions Drawing No: LSS100 Sheets 1-7 and on the application form and on any supporting information received with the application except as amended by the conditions specified hereunder.

2. Appointment of PCA and Notice of Commencement

No work is to commence until the person granted development consent has:

- a) obtained a Construction Certificate for each structure
- b) appointed a PRINCIPAL CERTIFYING AUTHORITY
- c) notified the Council of the appointment

- d) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved.
- e) given the Council at least 2 days notice of the intention to commence erection of the building. (Section 81A EP&A Act 1979)

3. Occupation

The structure must not be occupied or used until the Principal Certifying Authority has received and determined the application for an "Occupation Certificate".

A Final Occupation Certificate must not be issued unless all required certificates have been received and the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia.
(Section 6.3 and 6.18 EP&A Act 1979)

4. Construction Certificate

No work is to commence until the person granted development consent has had the detailed plans and specifications endorsed by the Council or other accredited certifier and has received a "Construction Certificate" [Section 81A EP&A Act 1979].

5. Critical Stage Inspections

The Principal Certifying Authority for building or subdivision work carried out on a site is required to be satisfied that the work has been inspected on such occasions as are prescribed by the regulations or other occasions required by the principal certifying authority, before the issue of a Certificate of Occupancy or Subdivision Certificate for the building or work. (Section 6.5 EP&A Act 1979)

6. Permitted hours for building work

All building work shall be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 5.00pm Saturdays. No work shall be carried out on Sundays and public holidays.

7. Stormwater

Roof water from the structure is to be retained on site and should be collected and stored for recycling and reuse and any overflow from onsite storage is to be directed to the Murray Grove table drain.

9. Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia

10. Excavations and backfilling

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
11. Signs to be erected on building & demolition site
- a. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (i) stating that unauthorised entry to the work site is prohibited, and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- b. Any such sign is to be removed when the work has been completed. (Clause 78H of Regulation).
12. Erosion & Sediment Control
- Prior to the commencement of any site works appropriate erosion and sediment control measures are to be implemented to prevent any sediment from leaving the site, these measures are to be maintained during the construction phase and can only be removed once appropriate stabilisation has been completed.
13. Roof Cladding
- The cladding on the roof will need to be clad in a non-reflective colour type the colour will need to be confirmed prior to the issue of the Construction Certificate this is to ensure that any potential glare from the roof will be mitigated.
14. Comply with Noise Control Act
- Operations on the site must comply with relevant environmental legislation (including Noise Control Act).
15. Protection of public places
- a. If the work involved in the erection or demolition of a building:
- (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- b. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d. Any such hoarding, fence or awning is to be removed when the work has been completed
16. Waste
- A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.

17. Landscaping

Landscaping is required to be provided along the northern boundary to the rear of the subject Lot. The landscaping must be provided a width of 2m (minimum) along the length of these boundaries.

The landscaping must:

- Be protected from vehicle movement areas to prevent damage to these vegetated areas,
- Be designed to ensure low maintenance,
- Where possible native plant species are to be utilised in landscaping with the preference given to drought tolerant species,
- A range of plant species of various heights are to be used in the landscaping to create interest, improve visual amenity and to help screen the development,
- Provide irrigation where required for the maintenance and establishment of the landscaping.

This condition has been included to improve the visual quality and amenity of industrial development through the provision of effective, low maintenance landscaping. To ensure appropriate screening of outdoor areas from adjoining properties and from public places (including roads) and provide a buffer between industrial developments and adjoining or nearby non-industrial land uses.

18. Landscaping Completion

Landscaping must be established (i.e. planted) in prior to the issuance of an occupation certificate.

19. Maintenance of landscaping

Landscaping must be maintained at all times throughout the life of the development.

20. Use

This approval is granted for the shed to be used for storage purposes normally associated with a residence. No other use is permitted for the shed unless prior approval is obtained from Council.

Summary

Applicant:	Tyson Campbell
Owner:	Mr TM Campbell and Mrs EL Campbell
Proposal:	Residential Storage Shed
Location:	4 Murray Grove, Barooga

Report:

Purpose of Report

This report is provided to Council for the determination of a Development Application (DA) as Council Officers do not have delegation to determine this particular application. This is due to the subject DA

requesting the existing restriction to user on the title be varied to allow the shed to be constructed within the 20 metre buffer zone. As such the DA is required to be determined by Council, as the Council is the empowered authority to release vary or modify the restriction.

Proposal

The subject Development Application seeks consent for the construction of a residential storage shed.

The residential storage shed is proposed to be 20m long x 10m wide. The shed has an overall height of 3.8m and eave of 3m with a 10-degree roof pitch. The shed is located 10m from the rear northern boundary and 8m from the eastern boundary.

Variation to restriction on use on land

This variation to the Council to allow the construction of a building in the buffer zone has been supported by a request to encroach buffer zone statement prepared by Habitat Planning see **"Appendix 1"**. This has been considered in the assessment and the justification not supported given the use of the proposed shed is an ancillary residential development associated with the existing residence constructed. We have received correspondence from the adjoining landowner of 74 Quicks Road Barooga (Lot 2 DP712556) see **"Appendix 2"**. The concerns from the owner are that they have no issues with the construction of the shed going ahead, the main concern is the ability for the owner to continue to farm as indicated, as they are still actively farming the land and still have the potential impact of chemical spray drift and associated tractor noise from their farming operations.

This report was brought up for determination at the August Council item 8.7. It was resolved to defer the decision. The reason being "The reason why is that we would like to give the applicant the opportunity to provide rationale as to why they need to encroach on the buffer zone."

Since then, the applicant has provided rationale for the shed location see **"Appendix 3"**. This has been assessed on its merits and found to be not enough justification in the submission to change the view of the development application and the report. As the outcome is still fair and reasonable planning outcome.

The buffer zone was created as part of Development consent 50/03/DA/D9 for a 11 lot subdivision, issued on the 18th December 2002. Spray drift and the continuation of the agricultural use of the land to the west and north was mitigated in the subdivision by the creation of the buffer zone to the affected lots.

Now that the area has been in filled with dwellings and ancillary development with the likes of sheds and swimming pools, Council would be creating and unwarranted precedent and contradictory to the subdivision issued in 2002, as the adjoining land to the west and north of the lot has not changed zoning nor changed its farming operations to date. With this taken into consideration it is not appropriate for the Council to vary the restriction to use on the land.

Impacts

Any implications Council may have in the future to not varying this restriction will be low as the possibility of this becoming a common occurrence is unlikely, given the development of dwellings and ancillary developments on the surrounding lots have all been constructed out of the buffer zone.

Conclusion

As such, the Development Application seeks development consent for the construction of the Residential Storage Shed. The development is still permissible and is recommended for approval at the renewed setback of 20m from the rear boundary. A full development assessment report is provided as “**Appendix 4**”. The report assesses the application as required under s4.15 of the *Environmental Planning and Assessment Act 1979*.

Also attached as “**Appendix 5**” is the development plans.

8.20 Development Application 18-23-DA-D1 - Single Dwelling with Attached Garage and Swimming Pool

- Author:** Town Planner, Noureen Wajid
- Strategic Outcome:** 1. Sustainable natural and built landscapes
- Strategic Objective:** 1.1. Support sustainable use of our natural resources and built landscapes
- Delivery Program:** 1.1.1. Coordinate strategic land-use planning
1.1.3. Enhance the visual amenity, heritage and liveability of our communities
- Council's Role:** **Strategic Partner:** The Council partners with other agencies, stakeholders, community groups etc in the deliver of a Council provided service or activity that aligns with Councils Strategic outcomes or Delivery Program.
- Appendices:**
- 1 Quicks Road, Tocumwal - Rural Dwelling - Proposed Plans - 2022-06-07_PAN-249916.pdf (under separate cover)
 - 1 Quicks Road, Tocumwal - Rural Dwelling - SEE_PAN-249916.pdf (under separate cover)

Recommendation

That Council resolves to refuse Development Application No. 18/23/DA/D1 – Single Dwelling with Attached Garage & Swimming Pool, as the proposal does not comply with the minimum lot size requirement in accordance with Clause 4.2A of Berrigan Local Environmental Plan 2013 (BLEP 2013).

Summary

- Applicant:** Miss Amy Morden
- Owner:** Mr. Peter Letcher
- Proposal:** Single Dwelling with Attached Garage & Swimming Pool
- Location:** 1 Quicks Road Tocumwal

Report

The subject site is addressed as 1 Quicks Road, Tocumwal and is formally identified as Lot 1 in DP 1088371. The site is zoned RU1 Primary Production under the Berrigan Local Environmental Plan 2013 and is surrounded by existing rural, agricultural land uses.

The land, highlighted in Figure 1 below is 19.37 hectares in size and is an unusual triangular shaped parcel having an approximate frontage of 765m to Quicks Road at the northwest boundary, and a maximum depth of 535m at the widest point of the site.



Figure 1. Subject Site and Location

Proposal

The subject application is for the construction of a new Single Detached Dwelling and swimming pool, under the application number 18/23/DA/D1.

The development proposes to comprise of a single storey 4-bedroom, 3-bathroom dwelling with an internal living space with meals area and open kitchen, 1 office, 1 craft room, and alfresco. A triple garage is proposed to be attached to the dwelling with internal access through laundry.

The development also proposes a 12x4.1m swimming pool.

A site plan has been submitted with the Development application providing the approximate location of the proposed dwelling and swimming pool (figure 2).

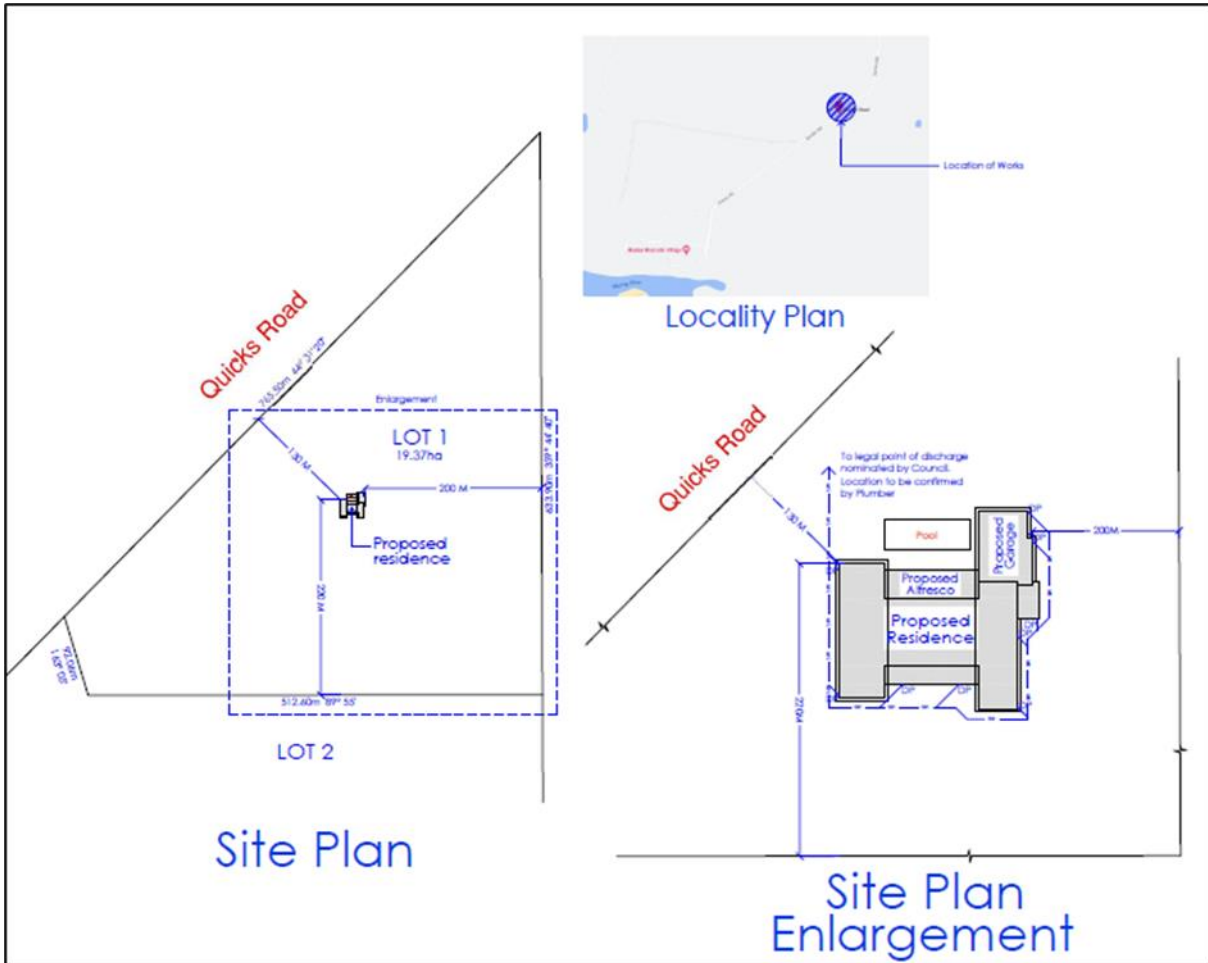


Figure 2. Site Plan

Assessment

The Development Application has been assessed against the relevant heads of consideration under the following statutory requirements

- Section 4.15 of the Environmental Planning and Assessment Act, 1979
- Berrigan Local Environmental Plan 2013
- Berrigan Development Control Plan 2014

Environmental Planning and Assessment Act, 1979

4.15 Evaluation

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority

that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan,

(iii a) and any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

Comments:

The Development Application is not consistent with the requirements of section 4.15 of the EP&A Act as the proposed development is located within rural land associated with agricultural use only, and does not comply with the objectives of the zoning and minimum lot size requirements under the BLEP 2013. There has not been enough merit applied to the DA submission to allow a variation to Clause 4.2A.

Berrigan Local Environmental Plan 2013

The Berrigan Local Environmental Plan 2013 (BLEP) is the principal planning instrument that applies within the Berrigan Shire and the Development Application has been assessed against the relevant heads of consideration.

The subject land zoned RU1 Primary Production and the objectives of RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To permit development that enhances the agricultural and horticultural production potential of land in the locality.
- To permit low-key tourist and visitor accommodation that is compatible with the scenic amenity, and promotes the character, of the area.
- To enable function centres to be developed in conjunction with agricultural uses.

Comments:

The proposed dwelling application does not provide enough justification that the dwelling would enhance the agricultural and horticultural production potential of the site, and therefore does not meet the requirements of the zoning objectives.

4.2A Erection of dwelling houses on land in certain rural and environment protection zones

(1) The objectives of this clause are as follows—

(a) to minimise unplanned rural residential development,

(b) to enable the replacement of lawfully erected dwelling houses in rural and environment protection zones.

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone E3 Environmental Management.

(3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land—

(a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or

(b) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or

(c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or

(d) is an existing holding, or

(e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—

(i) a minor realignment of its boundaries that did not create an additional lot, or

(ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or

(iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Comments:

Under the Berrigan Local Environmental Plan (BLEP) 2013, the minimum lot size requirement for RU1 Primary Production is 120 hectares. The subject site has a total area of only 19.37 hectares and is therefore approximately 84% over the required minimum lot size. The extent of the proposed variation to Clause 4.2A is major in nature.

The applicant has stated that the landowners intend to further intensify primary production on the land and that proposed dwelling will provide the ability to regenerate the agricultural use of the site, however, proper details and examples have not been provided to show the future intentions of increased production across the site.

If consideration were to be given to the proposed development with the limited justification of agricultural enhancement, future implications would occur and similar applications would be encouraged, and given the approval repetition, Clause 4.6 of the Berrigan Local Environmental Plan 2013 will be reported to the Department of Planning and Environment quarterly.

Conclusion

It is considered that the proposed development on the land zoned RU1 Primary Production does not comply with the minimum lot size requirement under clause 4.2A of the Berrigan Local Environmental Plan 2013 provision that, no dwelling is permissible if the subject lot size is less than 120 hectares, therefore the development application numbered 18/23/DA/D1 is not to be supported by Council.

8.21 Development Application 151-22-DA-D5 – Storage Shed and Additions to an Existing Alfresco

Author:	Town Planner, Noureen Wajid
Strategic Outcome:	1. Sustainable natural and built landscapes
Strategic Objective:	1.1. Support sustainable use of our natural resources and built landscapes
Delivery Program:	1.1.3. Enhance the visual amenity, heritage and liveability of our communities 1.1.1. Coordinate strategic land-use planning
Council's Role:	No Role: The Council chooses not to have a role in relation to a particular service or activity
Appendices:	1. Site Plan and Shadowing Diagrams.pdf (under separate cover) 2. Plans for Pool-Pump Location and Heater Location.pdf (under separate cover) 3. Architecture Plans 22 Riley Court Tocumwal.pdf (under separate cover)

Recommendation

That Council approve the Development Application 151/22/DA/D5 for a residential storage shed and additions to an existing Alfresco, subject to the following:

1. Approved Plans

The development shall be implemented substantially in accordance with the details set out on the plan/drawing no: A1 drafting Design Job No A80-2022 sheet 1-2 and on the application form and on any supporting information received with the application except as amended by the conditions specified hereunder.

2. Appointment of PCA and Notice of Commencement

No work is to commence until the person granted development consent has:

- obtained a Construction Certificate for each structure
- appointed a PRINCIPAL CERTIFYING AUTHORITY
- has notified the Council of the appointment
- has given the Council at least 2 days' notice of the intention to commence erection of the building. (Section 81A EP&A Act 1979)

3. Construction Certificate

No work is to commence until the person granted development consent has had the detailed plans and specifications endorsed by the Council or other accredited certifier and has received a "Construction Certificate" [Section 81A EP&A Act 1979].

4. Occupation

The structure must not be occupied or used until the Principal Certifying Authority has received and determined the application for an "Occupation Certificate".

A Final Occupation Certificate must not be issued unless all required certificates have been received and the building is suitable for occupation or use in accordance with its classification under the Building Code of Australia (Section 109C(1)(c) and 109H EP&A Act 1979).

5. Critical Stage Inspections

The Principal Certifying Authority for building or subdivision work carried out on a site is required to be satisfied that the work has been inspected on such occasions as are prescribed by the regulations or other occasions required by the principal certifying authority, before the issue of a Certificate of Occupancy or Subdivision Certificate for the building or work. (Section 109E EP&A Act 1979)

6. Hours of Operation

The hours of operation for the Construction works on the site shall be limited to the daylight hours, between 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 5.00pm Saturdays. No work shall be carried out on Sundays and Public Holidays without the prior written consent of the Council.

7. Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

8. Signs to be Erected on Building Site

a. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

(i) stating that unauthorised entry to the work site is prohibited, and

(ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

b. Any such sign is to be removed when the work has been completed. (Clause 78H of Regulation).

9. Protection of Public Places

(i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

(ii) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place.

b. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

c. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

d. Any such hoarding, fence or awning is to be removed when the work has been completed.

10. Waste

A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.

11. Works in Road Reserve

No work is to be carried out beyond the property boundary on any road reserve, nature strip, footpath, concrete kerb, paved area, building or supply service without the prior written consent of the Council, in order to protect community assets and eliminate potential hazards to the community in the "public place".

An "Application for Works, Structures and Activities on a Council Road" must be submitted to Council, along with relevant plans and the determined fee. Consent must be obtained, before commencement of any work.

12. Comply with Noise Control Act

Operations on the site must comply with relevant environmental legislation (including Noise Control Act).

13. Demolition

The demolition shall be conducted and the site maintained in a safe condition during the process of the demolition in accordance with Australian Standard 2601-2001 the Demolition of Structures, Workcover guidelines and Occupational Health and Safety Regulations.

14. Stormwater

Roofwater from the building must be piped underground to the Riley Street kerb in accordance with the Building Code of Australia and Relevant Australian Standards.

15. Tree Planting

Additional tree planting must be undertaken on the property for both the aesthetic and environmental enhancement of the area.

16. Archaeology Discovered During Works

If any object having interest due to its age or association with the past is uncovered during the course of the work—

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

Note—

Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

17. Aboriginal Objects Discovered During Works

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—

- (a) all excavation or disturbance of the area must stop immediately, and

(b) the person making the discovery must advise the Chief Executive (within the meaning of the [National Parks and Wildlife Act 1974](#)) of the discovery in accordance with section 89A of that Act.

Note—

If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the [National Parks and Wildlife Act 1974](#).

18. Contamination Discovered During Works

(1) If during works on the land comprising the lot, the land is found to be contaminated, within the meaning of the Contaminated Land Management Act 1997—

(a) all works must stop immediately, and

(b) the Environment Protection Authority and the council must be notified of the contamination.

(2) Land is found to be contaminated for the purposes of this clause if the person having the benefit of the complying development certificate or the principal certifying authority knows or should reasonably suspect the land is contaminated.

Note—

Depending on the nature and level of the contamination, remediation of the land may be required before further work can continue.

19. Earthworks, Retaining Walls and Structural Support

(1) Any earthworks (including any structural support or other related structure for the purposes of the development)—

(a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and

(b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and

(c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#), and

(d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the [Protection of the Environment Operations \(Waste\) Regulation 2005](#).

(2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

20. Drainage Connections

(1) If the work is the erection of, or an alteration or addition to, a dwelling house, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.

(2) Any approval that is required for connection to the drainage system under the [Local Government Act 1993](#) must be held before the connection is carried out.

21. Lighting

(1) All new external lighting must—

- (a) comply with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*, and
 - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
- (2) Lighting at vehicle access points to the development must be provided in accordance with the following standards—
- (i) AS/NZS 1158.0:2005, *Lighting for roads and public spaces, Part 0: Introduction*,
 - (ii) AS/NZS 1158.1.1:2005, *Lighting for roads and public spaces, Part 1.1: Vehicular traffic (Category V) lighting—Performance and design requirements*,
 - (iii) AS/NZS 1158.1.2:2010, *Lighting for roads and public spaces, Part 1.2: Vehicular traffic (Category V) lighting—Guide to design, installation, operation and maintenance*,
 - (iv) AS/NZS 1158.2:2020, *Lighting for roads and public spaces, Part 2: Computer procedures for the calculation of light technical parameters for Category V and Category P lighting*,
 - (v) AS/NZS 1158.3.1:2020, *Lighting for roads and public spaces, Part 3.1: Pedestrian area (Category P) lighting—Performance and design requirements*,
 - (vi) AS/NZS 1158.4:2015, *Lighting for roads and public spaces, Part 4: Lighting of pedestrian crossings*,
 - (vii) AS/NZS 1158.5:2014, *Lighting for roads and public spaces, Part 5: Tunnels and underpasses*.

22. Landscaped Area (Planting and Maintenance)

- (1) Any tree or shrub that fails to establish within 2 years of the initial planting date must be replaced with the same species of tree or shrub.
- (2) All landscaped areas on the site must be maintained on an on-going basis

Summary

Applicant: Mark Newton
Owner: Mark Newton
Proposal: Residential Storage Shed and Additions to an Existing Alfresco with Powder Room
Location: 22 Riley Court, Tocumwal

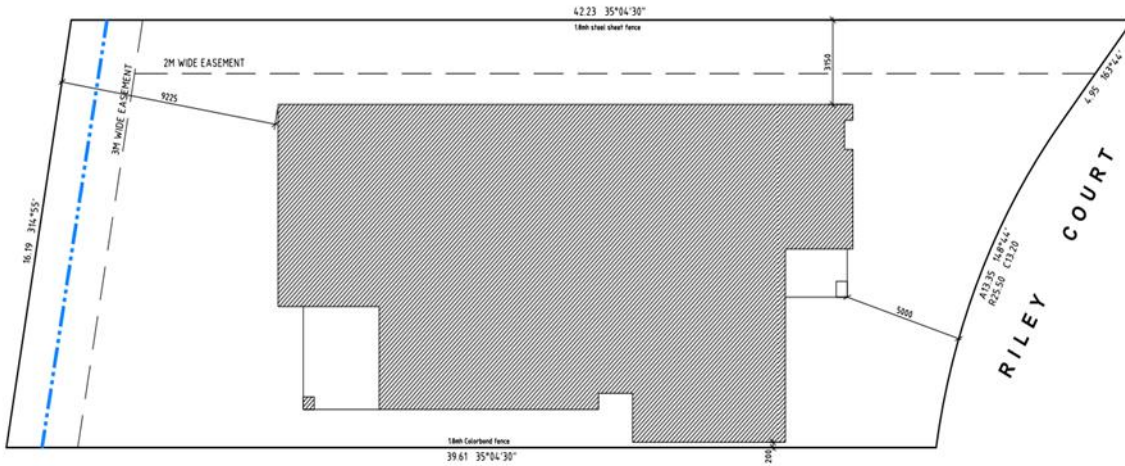
REPORT

The subject application is for a residential storage shed and additions to an existing alfresco under the application number 151/22/DA/D5.

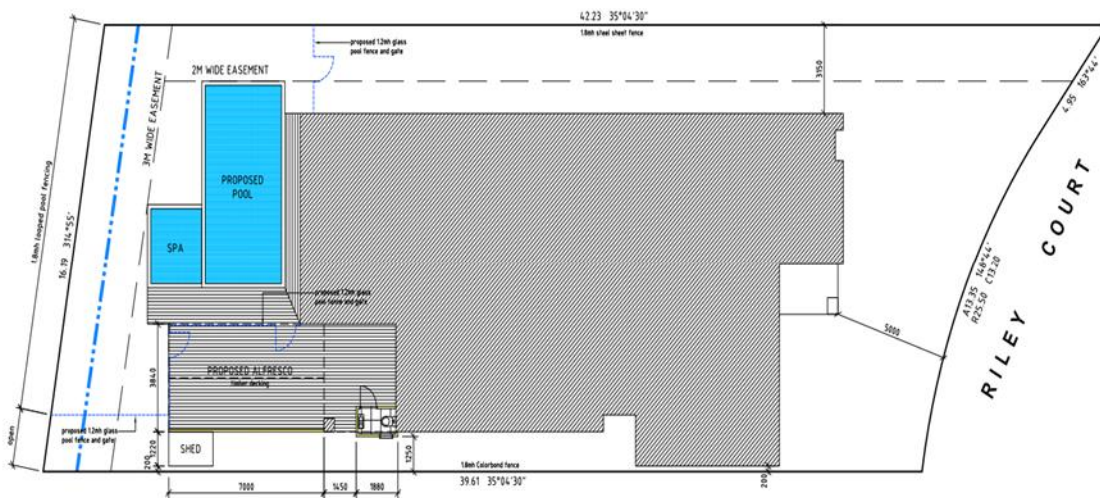
Proposal

As mentioned, the proponent wishes to get development approval to construct a storage shed to house a golf cart and additions to an existing alfresco with a powder room.

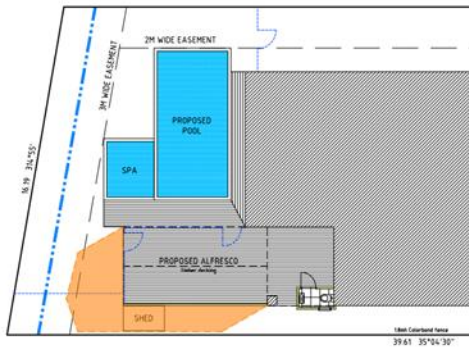
The proposed storage shed will be 2.5m x 1.32m and 2.2m in height, in total will have 3.3sqm area.
 The proposed alfresco will be 7m long and 3.8m wide, in total 26.6msq area will be extended to the existing alfresco.



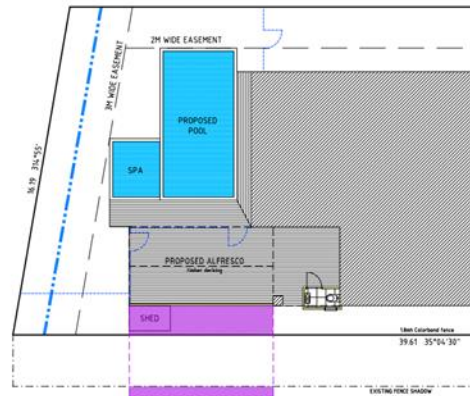
EXISTING SITE PLAN
 SCALE 1:100



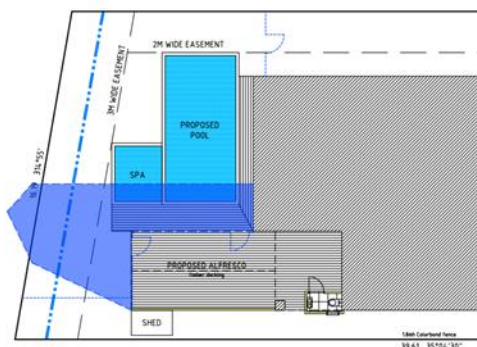
PROPOSED SITE PLAN
 SCALE 1:100



PROPOSED 12PM SHADOW DIAGRAM (SEPT 22)
 SCALE 1:100



PROPOSED 3PM SHADOW DIAGRAM (SEPT 22)
 SCALE 1:100



PROPOSED 9AM SHADOW DIAGRAM (SEPT 22)
 SCALE 1:100

Overshadowing Diagram of the Proposed Development – 22 Riley Court

SITE LOCATION AND CONTEXT

The subject site is addressed at 22 Riley Court, Tocumwal and is formally identified as Lot 56 in DP 1054776. The site is zoned RU5 Village under the Berrigan Local Environmental Plan 2013 and located in well-established residential precinct. The subject site is located on the eastern fringe of the township of Tocumwal and is located approximately 1 kilometre east of the Tocumwal town centre.

The land, highlighted in Figure 1 below is 850msq in size and vehicular access to the property is available from Riley Court and has direct access to the Tocumwal Golf Course from the rear of the property.



NEIGHBOUR NOTIFICATION

As the proposed development will be located 1.5m from the eastern adjacent boundary and the proposed alfresco will be 3.8m in height, it has the ability to impact on the neighbouring property.

Therefore, the landowner for the neighbouring properties were notified of the development on 29 April 2022 for 21 days.

SUBMISSION

Council has received a formal submission from the neighbour of 21 Riley Court, against the proposed development. An invite was sent to the neighbour to discuss the objections in person, meeting was held in Berrigan Shire Council office on 20 May 2022. They have raised their concerns as below:

- Reduction of natural light into their main living area
- Loss of visual of trees aligning the Golf Course
- Noise from the pool/spa pump to the main living area

The correspondence was sent to applicant and an in-person meeting was organised with the owner of 21 Riley Court for 31 May 2022 with the Town Planner and Building and Planning Manager. The neighbour’s concerns were raised, and different options were discussed to amend the plans such as put noise control cover onto the pool-pump and provide overshadowing diagram, which the applicant was happy to provide as per the recommendations provided.

Amended plans were received with overshadowing diagrams and were sent to the owner of 21 Riley Court for their further review. They have submitted objections against the amended plans again, to discuss further another in person meeting was organised with Council staff. The few concerns that the owner of 21 Riley Court was raised was not the part of this application. They preferred to relocate the pool-pump and where still concerned about the natural sunlight and loss of view.

Their concerns had been forwarded to the applicant, and we requested to relocate pool-pump to another location and provide better shadowing diagram, which applicant agreed to do so see plan attached in (Appendix 2). The new plan and shadowing diagram were forwarded to the owner of 21 Riley Court on 20/09/2022 and to do date no submissions have been received.

Assessment

Several factors must be considered in assessing the proposed development. Under the Berrigan Local Environmental Plan 2013 a Shed and proposed additions are permissible within the RU5 Village zone.

An assessment of the proposal against the relevant development controls of the Berrigan Shire DCP is provided in the table below and the potential impacts on the surrounding neighbouring environment.

Berrigan DCP Chapter 2 Residential Development	Assessment of proposal
2.1 Neighbourhood character Objectives of the controls is to create aesthetically pleasing residential neighbourhoods and high levels of amenity. The design of residential development is to suit the existing setbacks and character of the neighbourhood.	The neighboring environment has established residential dwellings with minimum 4.5m front setbacks along Riley Court. The proposed development will be developed at the rear of the block and would not be visible from the front streetscape. The proposal is suitable for the existing scale, density and character of the area and has been assessed as in keeping with amenity and character of the area.
2.2 Streetscape Objectives of the controls is to ensure residential design makes a positive contribution to the streetscape and the integration of new development into the	As per the above point, the proposal is in keeping with the existing character of the neighbourhood. The proposed development will not be visible from the front street as it is evident that the proposal will not have any adverse impact onto the streetscape environment. Therefore, the proposal has been

<p>streetscape and neighbourhood. The bulk and scale should be kept to a compatible size with the existing development in the residential precinct.</p>	<p>assessed as integrating into the streetscape and the neighbourhood and will be meeting with the objective of the Clause 2.2 of DCP.</p>
<p>2.5 Building Setbacks Objectives of the controls is to ensure attractive streetscapes through consistency in front building setbacks. A dwelling must have a minimum 4.5 metre building line setback from the front property boundary.</p>	<p>The proposal does comply with the development objective being appropriately side setback for RU5 Village Zone. The storage shed will be 200mm setback from the neighbouring boundary and maximum 2.2m in height which would not be completely visible over the fence. The proposed alfresco will be 1.5m setback from the neighbouring boundary and will be 3.8m in height in keeping with the existing dwelling height.</p>
<p>2.11 Outbuildings Objectives of the controls is to ensure outbuildings are not detrimental to residential amenity.</p>	<p>Given the above points, the proposal has been assessed as no adverse impact on to the residential amenity.</p>

Discussion

The proposal has been assessed as complying with specific objectives and development controls of the Berrigan DCP Chapter 2 for Neighbourhood Character, Streetscape, Building Setbacks and Outbuildings. The proposal has been assessed generally as having very minimal adverse impact on to the residential neighbourhood, as the proposed development will not be visible from the front streetscape.

The shadowing diagrams attached in (Appendix 1) indicate that the owner of 21 Riley Court will only be slightly affected by this development, as they will get the more than 3-hour direct sunlight, as per Councils DCP a dwelling must have minimum 3-hours direct sunlight into the living room which the proposed development is complying with. The Applicant has relocated the pool-pump to the western side of the block which will mitigate the noise concern.

A site analysis visit was undertaken to analyse the future impact of the proposed development, the development will be at the rear of the block and the proposal is complying with the controls of Berrigan Shire DCP Chapter 2. It was noted that the owner of 21 Riley Court does have direct view to the Golf Course from their living/lounge room and proposed development will not impact their view. The existing tree line on the boundary of Golf Course preventing direct sunlight penetrating into both dwellings, which the proposed development would not be contributing with it. (Pictures below for reference taken on 11/08/2022 at 4pm)





Conclusion/ Legislation

In assessing this development application, the relevant parts of Section 4.15 of the Environmental Planning and Assessment Act 1979 and the objectives of Berrigan Local Environmental Plan 2013 (LEP) have been taken into account. The proposal has been assessed as generally complying with development controls of the Berrigan DCP Chapter 2 and the proposal has been recommended for APPROVAL.

Recommendation

That Development Application Number 151/22/DA/D5 for a storage shed, addition to an existing Alfresco with attached powder room be APPROVED SUBJECT TO CONDITIONS as the proposal does generally comply with the development controls of Chapter 2 of the Berrigan Development Control Plan 2014 and potentially will not have negative impact on the residential amenity and character of the existing streetscape in the neighbouring environment along Riley Court.

8.22 Council Action List Report

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	Nil

Recommendation

That Council receive and note the Council Action List Report.

Report

The Council Action List Report, circulated separate to this Agenda to Councillors is designed to note the motion, and actions being taken to implement that decision, including the timeframe in which it is likely to be completed.

The Council Action List Report dates to the 2022 September Council Meeting.

As you know, a new software system called InfoCouncil has been introduced to compile business papers being InfoCouncil.

InfoCouncil has the capability to capture actions from meetings, and track the progression of these through a reporting function.

Also circulated with this Agenda are the following reports:

- Outstanding Council Actions from 21.09.2022
- Completed Council Actions from 21.09.2022 to 13.10.2022

8.23 Pecuniary Interest Disclosure 2021-2022

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Regulator: The Council has legislated roles in a range of areas which it is required to fund from its own funds (apart from fees for cost recovery, government grants etc)
Appendices:	Nil

Recommendation

That Council receive and note the tabling of Pecuniary Interest Returns received from Councillors and designated officers for the period 1 July 20221 to 30 June 2022

Report

Tabled at this meeting are Pecuniary Interest Returns as required and in accordance with Section 450a of the Local Government Act duly completed by:

Councillors: Matthew Hannan
Caryl Marriott
Roger Reynoldson
Renee Paine
John Taylor
Julia Cornwell-McKean
Sarah McNaught
Ted Hatty

Designated Officers: Karina Ewer (Chief Executive Officer)
Matthew Hansen (Deputy Chief Executive Officer)
Rohit Srivastava (Director Infrastructure)
Dr Joanne Ruffin (Director, Strategic Planning and Development)
Gary George (Operations Manager)
Aaron Khokhar (Assets and Engineering Manager)
Mohit Jain (Project Engineer)
Matthew Miller (Manager Building and Planning)
Noureen Wajid (Town Planner)
Tahlia Fry (Finance Manager)



Christopher Koschel (Building Surveyor)

There are no outstanding Pecuniary Interest Disclosures for the 2021-2022 financial year.

8.24 Development Determinations for Month of September 2022

Author: Administration Support - Building & Planning, Melissa Kennedy

Strategic Outcome: 1. Sustainable natural and built landscapes

Strategic Objective: 1.1. Support sustainable use of our natural resources and built landscapes

Delivery Program: 1.1.1. Coordinate strategic land-use planning

Council's Role: **Service Provider:** The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council

Appendices: Nil

Recommendation

That Council receive and note this report.

Report

APPLICATIONS DETERMINED FOR SEPTEMBER 2022

APPLICATION	DESCRIPTION	PROPERTY LOCATION	APPLICANT	OWNER	STATUS	VALUE	DAYS TAKEN	
163/22/DA/DM	RELOCATABLE CONTAINER OFFICE	QUICKS ROAD, TOCUMWAL NSW 2714 (Lot1//DP1088371)	PETER LETCHER	MR PJ LETCHER AND MRS DL LETCHER	Approved 20-09-2022	\$ 30000.00	Active 85	Total 85
187/22/DA/D6	ADDITIONS TO DWELLING	9-11 HENNESSY STREET, TOCUMWAL NSW 2714 (Lot33//DP625305)	JANINE JOB	MR RA JOB AND MRS JW JOB	Approved 21-09-2022	\$ 600000.00	Active 19	Total 60
13/23/DA/D1	RELOCATED DWELLING AND CARPORT	23 FLYNN STREET, BERRIGAN NSW 2712 (Lot2/4//DP3329)	BERRIGAN SHIRE COUNCIL	BERRIGAN SHIRE COUNCIL	Approved 23-09-2022	\$ 20000.00	Active 0	Total 39
14/23/DA/D5	RESIDENTIAL STORAGE SHED	1 ISABEL AVENUE, BAROOGA NSW 3644 (Lot16//DP1071667)	BRADLEY STEVENSON	MR BP STEVENSON AND MS EL DUNN	Approved 20-09-2022	\$ 18000.00	Active 0	Total 36
19/23/DA/D1	BV DWELLING & ATTACHED GARAGE	63 BRUTON STREET, TOCUMWAL NSW 2714 (Lot1//DP1068277)	GJ GARDNER	MR CD STOTT AND MS SA PETERSEN	Approved 23-09-2022	\$ 517496.00	Active 28	Total 28
3/23/CD/M4	DECK AND PERGOLA	63 KELLY STREET, TOCUMWAL NSW 2714 (Lot251//DP44490)	B & N MASTER BUILDERS	MR DJ BROWN AND MS JE SMITH	Approved 16-09-2022	\$ 19400.00	Active 21	Total 21
4/23/CD/M5	INGROUND FIBREGLASS SWIMMING POOL	35-37 DENISON STREET, FINLEY NSW 2713 (LotA//DP302484)	POOLSIDE COBRAM	MR DA BRAYBON AND MRS JD BRAYBON	Approved 16-09-2022	\$ 86875.00	Active 20	Total 20
5/23/CD/PC	RESIDENTIAL STORAGE SHED	39 NUGGET FULLER DRIVE, TOCUMWAL NSW 2714 (Lot71//DP1070311)	IMPACT BUILDING APPROVALS PTY LTD	MR GW PEARCE AND MRS MG PEARCE	Approved 09-09-2022	\$ 15202.00	Active 0	Total 0
6/23/CD/PC	BV DWELLING & ATTACHED GARAGE	68 TESSIER DRIVE, TOCUMWAL NSW 2714 (Lot26//DP1250358)	WILKIE BUILDING CONSULTANT SERVICES	MR TJ EWERT	Approved 13-09-2022	\$ 375460.00	Active 0	Total 0
33/23/DA/D5	RESIDENTIAL STORAGE SHED	6 GEORGE STREET, TOCUMWAL NSW 2714	JAMES PINER	MR JW PINER AND MRS MA	Approved 26-09-2022	\$ 9000.00	Active 9	Total 9

		(Lot7/6/DP6464)		PINER				
7/23/CD/PC	BV DWELLING & ATTACHED GARAGE & SWIMMING POOL	7 IVIE AVENUE, BAROOGA NSW 3644 (Lot31//DP1093869)	MURRAY RIVER CERTIFIERS	MS TK FRY	Approved 15-09-2022	\$ 621107.00	Active 0	Total 0

APPLICATIONS PENDING DETERMINATION AS AT 30/09/2022

Application No.	Date Lodged	Description	Property Location
208/21/DA/D3	26-05-2021	INSTALLATION OF 68KL UNDERGROUND LP GAS TANK	94-104 DENILQUIN ROAD, TOCUMWAL NSW 2714 (Lot117//DP752296)
24/22/DA/D9	03-09-2021	10 LOT SUBDIVISION	LAWSON DRIVE, BAROOGA NSW 3644 (Lot9//DP1150036)
108/22/DA/D2	21-03-2022	HIGHWAY SERVICE CENTRE	NEWELL HIGHWAY, TOCUMWAL NSW 2714 (Lot297//DP720267)
151/22/DA/D5	29-04-2022	EXTENSION TO ALFRESCO	22 RILEY COURT, TOCUMWAL NSW 2714 (Lot56//DP1054776)
166/22/DA/D5	24-05-2022	RESIDENTIAL STORAGE SHED	4 MURRAY GROVE, BAROOGA NSW 3644 (Lot18//DP1092267)
175/22/DA/D6	07-06-2022	ADDITIONS TO DWELLING	1057 MULWALA-BAROOGA ROAD, BOOMANOOMANA NSW 3644 (Lot17//DP653769)
186/22/DA/DM	29-06-2022	EARTHWORKS AND RETAINING WALLS	160-162 DENILQUIN STREET, TOCUMWAL NSW 2714 (Lot332//DP1073141)
7/23/DA/DM	13-07-2022	MURRAY RIVER ROD RUN 2023	2 DENILQUIN ROAD, TOCUMWAL NSW 2714 (Lot422//DP1253984)
15/23/DA/D3	02-08-2022	INDUSTRIAL STORAGE SHEDS	SILO ROAD, TOCUMWAL NSW 2714 (Lot3//DP1024841)
16/23/DA/D5	03-08-2022	DECK	26 FALKINER STREET, TOCUMWAL NSW 2714 (Lot12//DP591886)
17/23/DA/D7	12-08-2022	INGROUND FIBREGLASS SWIMMING POOL	17 BAROOGA STREET, TOCUMWAL NSW 2714 (Lot14//DP523758)
18/23/DA/D1	16-08-2022	BV DWELLING & ATTACHED GARAGE	QUICKS ROAD, TOCUMWAL NSW 2714 (Lot1//DP1088371)
20/23/DA/DM	16-08-2022	SHADE SAIL	28-30 JERILDERIE STREET, TOCUMWAL NSW 2714 (Lot6/21//DP758981)
21/23/DA/D9	16-08-2022	19 LOT SUBDIVISION	29-37 SHORT STREET, TOCUMWAL NSW 2714 (LotB//DP403751)
22/23/DA/DM	16-08-2022	CARPORT	53-61 CHANTER STREET, BERRIGAN NSW 2712 (Lot2//DP536770)
23/23/DA/D1	18-08-2022	BV DWELLING & ATTACHED GARAGE	29-35 KELLY STREET, TOCUMWAL NSW 2714 (Lot136//DP752296)
24/23/DA/D5	07-09-2022	RESIDENTIAL STORAGE SHED	26 JERILDERIE STREET, TOCUMWAL NSW 2714 (Lot1/49//DP758981)
25/23/DA/D5	07-09-2022	RESIDENTIAL STORAGE SHED	1-3 HUGHES STREET, BAROOGA NSW 3644 (Lot3//DP1105784)
26/23/DA/D1	07-09-2022	BV DWELLING & ATTACHED GARAGE	21 ANZAC AVENUE, TOCUMWAL NSW 2714 (LotC//DP358840)
27/23/DA/D5	07-09-2022	PERGOLA	11 TOWN BEACH ROAD, TOCUMWAL NSW 2714 (Lot41//DP616085)
28/23/DA/D6	07-09-2022	ADDITIONS TO DWELLING AND INGROUND POOL	9 PINWOOD LANE, TOCUMWAL NSW 2714 (Lot19//DP285573)
29/23/DA/D5	07-09-2022	RESIDENTIAL STORAGE SHED	113 DENILQUIN STREET, TOCUMWAL NSW 2714 (Lot42//DP703312)

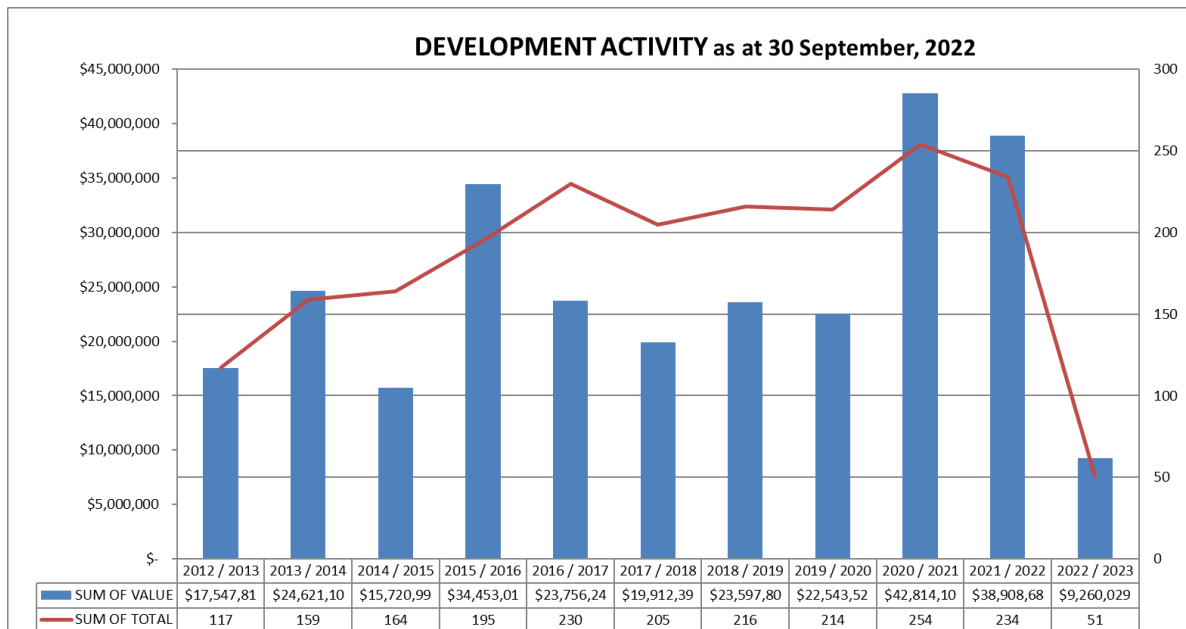
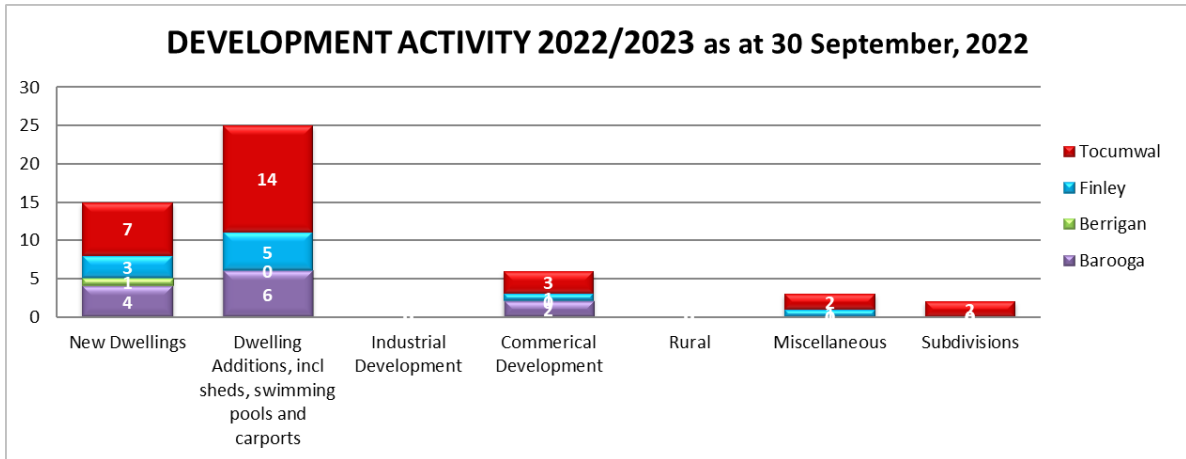
30/23/DA/D5	07-09-2022	RESIDENTIAL STORAGE SHED	50 TESSIER DRIVE, TOCUMWAL NSW 2714 (Lot35//DP1250358)
31/23/DA/D9	09-09-2022	7 LOT SUBDIVISION	BRUTON STREET, TOCUMWAL NSW 2714 (Lot6//DP1275427)
32/23/DA/D5	09-09-2022	RESIDENTIAL STORAGE SHED	63 HUGHES STREET, BAROOGA NSW 3644 (Lot6//DP1257753)
34/23/DA/D5	27-09-2022	RESIDENTIAL STORAGE SHED	9 ANTHONY AVENUE, TOCUMWAL NSW 2714 (Lot12//DP1068277)
35/23/DA/D9	27-09-2022	3 LOT SUBDIVISION	16-22 JERSEY STREET, TOCUMWAL NSW 2714 (Lot50//DP752296)
36/23/DA/D5	27-09-2022	STORAGE SHED	1 HAMILTON STREET, FINLEY NSW 2713 (Lot1//DP1262202)
37/23/DA/D5	27-09-2022	STORAGE SHED	9 HAMILTON STREET, FINLEY NSW 2713 (Lot2//DP1262202)
8/23/CD/M6	27-09-2022	ADDITIONS TO DWELLING	65 KELLY STREET, TOCUMWAL NSW 2714 (Lot252//DP44490)
9/23/CD/M5	27-09-2022	INGROUND FIBREGLASS SWIMMING POOL	14 HOWARD STREET, BAROOGA NSW 3644 (LotA//DP412777)
38/23/DA/D1	27-09-2022	3 X INDEPENDENT LIVING UNITS (Units 4,5,6)	60 SCOULLAR STREET, FINLEY NSW 2713 (Lot1//DP1236476)
39/23/DA/D5	28-09-2022	SKILLION	42-46 MURRAY STREET, FINLEY NSW 2713 (Lot2//DP545668)
40/23/DA/DO	28-09-2022	CARPORT	118 DENILQUIN STREET, TOCUMWAL NSW 2714 (Lot261//DP1102930)
41/23/DA/D2	28-09-2022	EXTENSION TO CLUB	42 BAROOGA ROAD, TOCUMWAL NSW 2714 (Lot228//DP752296)
42/23/DA/D5	30-09-2022	RESIDENTIAL STORAGE SHED	42 BUCHANANS ROAD, BAROOGA NSW 3644 (Lot51//DP1045702)

TOTAL APPLICATIONS DETERMINED / ISSUED (including modifications)

	This Month (Sept)	Year to Date	This Month's Value (Sept)	Year to Date Value
Development Applications (DA)	6	42	\$1,194,496	\$7,601,248
Construction Certificates (CC)	17	43	\$8,968,319	\$12,761,439
Complying Development Certificates (CDC)	5	9	\$1,118,044	\$1,658,781
Local Activity (s.68)	3	20	0	0

OTHER CERTIFICATES ISSUED FOR SEPTEMBER 2022

	s10.7(2) Planning Certificate		s10.7(5) Certificate		735A Certificate		s9.34 Certificate		s6.24 Building Certificate		Swimming Pool Certificate	
	SEP	Year Total	SEP	Year Total	SEP	Year Total	SEP	Year Total	SEP	Year Total	SEP	Year Total
BAROOGA	1	12	1	1	0	1	0	0	0	1	1	2
BERRIGAN	7	12	0	0	0	0	0	0	0	1	1	1
FINLEY	14	34	0	0	0	1	0	0	0	0	0	0
TOCUMWAL	14	45	1	1	0	1	0	1	0	0	1	2
TOTAL	36	103	2	2	0	3	0	1	0	2	3	5



8.25 Urban centre populations - 2021 census

- Author:** Deputy Chief Executive Officer, Matthew Hansen
- Strategic Outcome:** 2. Good government
- Strategic Objective:** 2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
- Delivery Program:** 2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
- Council’s Role:** **Information Channel:** Information about a service or activity of other bodies is channelled through, for example, brochures in Council office and other public spaces or links to third party websites
- Appendices:** Nil

This report is for information only.

Report

The Australian Bureau of Statistics have released a further tranche of data from the 2021 census.

This release includes population statistics for urban centres; previous releases provided population statistics for “localities” – i.e., including the surrounding hinterland.

The urban centre population figures for Berrigan Shire are:

Town	2016	2021	Change	Link
Barooga	1654	1752	98	UCL115009
Berrigan	934	957	23	UCL121007
Finley	1888	1864	-24	UCL121007
Tocumwal	2352	2587	235	UCL115139

8.26 Regional Banking Taskforce Report

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	4. Diverse and resilient business
Strategic Objective:	4.1. Strengthen and diversify the local economy and invest in local job creation and innovation
Delivery Program:	4.1.2. Support local enterprise through local economic and industry development initiatives and projects
Council's Role:	Advocate: The Council may advocate to another government or other organisation for certain things to happen, this could range from a single event (such as writing to a Minister) through to an ongoing campaign
Appendices:	<ol style="list-style-type: none">1. Regional Banking Taskforce 2021 (under separate cover)2. Regional Banking Taskforce - Report (under separate cover)

This report is for information only.

Report

In December 2021 Council made a submission to the Regional Banking Taskforce (Appendix 1).

The Report has now been finalised and is attached at Appendix 2.

Personally, I find the report very disappointing however, as noted in my submission, I believe the outcome was already decided before the submission requests went out. All questions were very slanted towards closing branches in regional areas. I do not believe this is a good outcome for regional communities.

8.27 2023-24 Rate Peg

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.3. Council operations and financial management support ethical, transparent and accountable corporate governance
Council's Role:	Service Provider: The full cost (apart from fees for cost recover, grants etc) of a service or activity is met by Council
Appendices:	1. Information-Paper-Rate-peg-for-NSW-councils-for-2023-24-29-September-2022.pdf (under separate cover)

This report is for information only.

Report

The Independent Pricing and Regulatory Tribunal (IPART) has announced the rate peg for 2023/24. For Berrigan Shire Council, **the 2023/24 rate peg is 3.7%**.

Assuming Council chooses to take up the entire rate peg, this equates to a \$210,000 increase in ordinary rates revenue.

The components of the rate peg for 2023-24 are:

- the change in the Local Government Cost Index (LGCI) to June 2022 of 3.5%;
- a productivity factor set to 0.0% because the ABS indices used for the LGCI incorporate improvements in labour and capital productivity;
- an adjustment of 0.2% for the increase in superannuation guarantee payments from 9.5% in 2020-21 to 10.0% in 2021-22; and
- a population factor for each council. For Berrigan Shire, the population factor is currently 0.0%

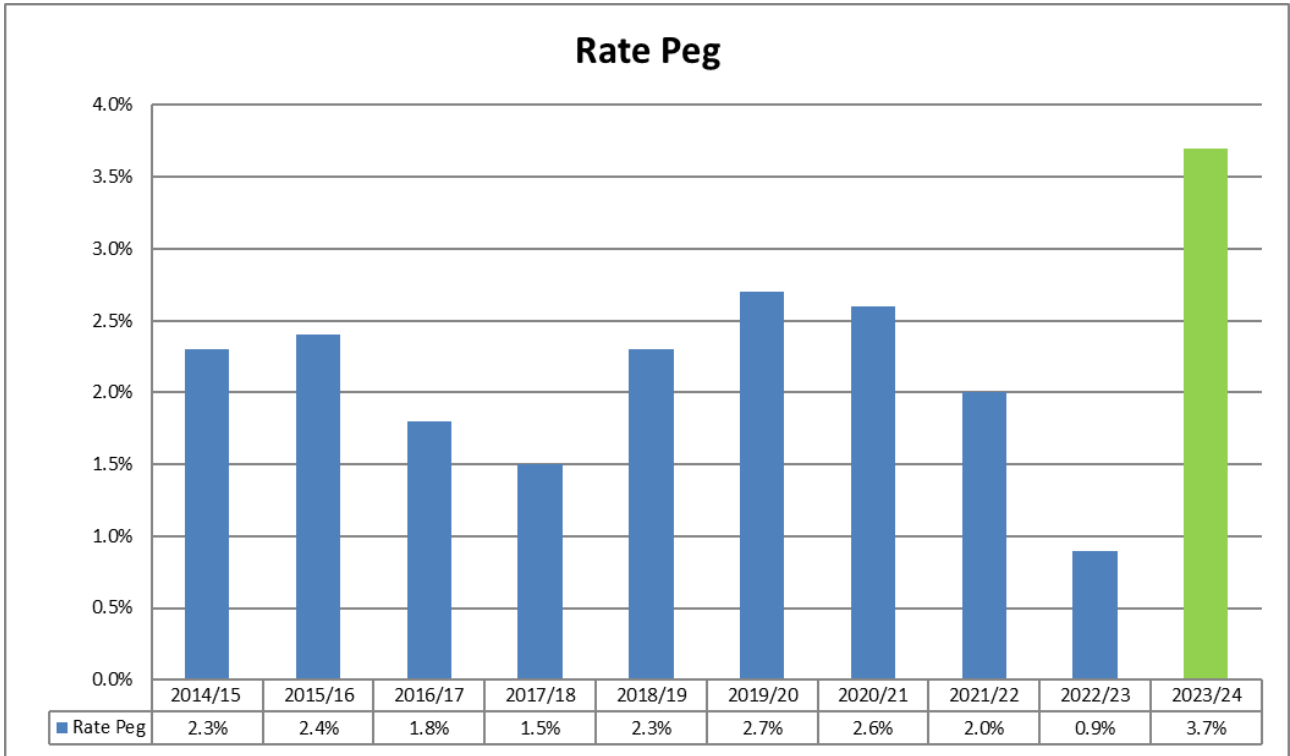
An information paper on the rate peg decision is attached for reference

The rate peg determines the maximum percentage amount by which a council may increase its general income for the year. For Berrigan Shire, general income consists entirely of rates income. The rate peg does not apply to stormwater, waste collection, water and sewerage charges.

The Council has discretion to determine how to allocate the rate peg increase between different ratepayer categories.

The 2022/23 rate peg was set at 0.9%. The Council applied for and was successful in obtaining a special rate variation to increase this to 2.0%.

The 3.7% increase is the largest annual increase since IPART have been responsible for setting the rate peg.



8.28 Local Government NSW - Annual Report

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Strategic Partner: The Council partners with other agencies, stakeholders, community groups etc in the deliver of a Council provided service or activity that aligns with Councils Strategic outcomes or Delivery Program.
Appendices:	1. LGNSW Annual_Report_2021-22.pdf (under separate cover)

This report is for information only.

Report

The Local Government NSW (LGNSW) Annual Report is attached for the information of Councillors. [LGNSW](#) are the peak body for local councils in NSW and represent the interests of local government. Berrigan Shire Council is a member of LGNSW.

8.29 Finley Lake Reserve Masterplan

Author:	Deputy Chief Executive Officer, Matthew Hansen
Strategic Outcome:	3. Supported and engaged communities
Strategic Objective:	3.1. Create safe, friendly and accessible communities
Delivery Program:	3.1.2. Facilitate all age healthy lifestyles and ageing in place
Council's Role:	Facilitator: A step further from advocacy where the Council may try to bring parties together to work out a solution to an issue affecting the Council area
Appendices:	Nil

This report is for information only.

Report

Claire Reynolds and Georgia Carroll from Thomson Hay Landscape Architects (THLA) will report to Council this meeting via Teams at 11:00am on progress on the preparation of the Finley Lake Reserve masterplan.

The Council is facilitating and funding the development of this masterplan in partnership with the Finley Lake Land Manager volunteer committee.

8.30 Briefing - Finley Health Service Redevelopment

Author:	Chief Executive Officer, Karina Ewer
Strategic Outcome:	3. Supported and engaged communities
Strategic Objective:	3.1. Create safe, friendly and accessible communities
Delivery Program:	3.1.1. Build communities that are home to more families and young people
Council's Role:	Strategic Partner: The Council partners with other agencies, stakeholders, community groups etc in the deliver of a Council provided service or activity that aligns with Councils Strategic outcomes or Delivery Program.
Appendices:	Nil

This report is for information only.

Report

The project team for the Finley Health Service Redevelopment, including representatives from Health Infrastructure and Murrumbidgee Local Health District will be attending this meeting at 9:15am to provide about the Redevelopment.

The project team will present information about the planning process, recent project examples, how stakeholders will be involved and informed, and next steps.

The NSW Government committed \$25 million to the Finley Health Service in November 2021, which will enhance the current facility and ensure health care services are carefully planned to meet community needs now and into the future.

8.31 Citizenship Ceremony

Author:	Executive Assistant, Jacq-Lyn Davis
Strategic Outcome:	2. Good government
Strategic Objective:	2.1. Berrigan Shire 2032 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting
Delivery Program:	2.1.1. Council operations, partnerships and coordination of resources contribute toward the implementation of Berrigan Shire 2032
Council's Role:	Agent: Typically, this would involve the Council delivering a service, funded by a government agency that is, or is likely to be regarded as, the responsibility of another government level
Appendices:	Nil

This report is for information only.

Report

The purpose of this report is to advise Councillors that at this meeting, Council will be conducting a citizenship ceremony for the following conferees at 10:00am:

- Eileen Brown (New Zealand)
- Helen Doyle (United Kingdom)
- Jonathan Sergeant (United Kingdom)

The Mayor will preside the ceremony on behalf of the Minister for Citizenship, The Hon. Andrew Giles MP.

I also note the apologies of Senator Perin Davey and Federal Member Sussan Ley who were invited to attend the citizenship ceremony.

Our new Australian citizens have also been invited to join Councillors for morning tea following the ceremony.

9 NOTICES OF MOTION/QUESTIONS WITH NOTICE

Nil

10 CONFIDENTIAL MATTERS

Nil

11 MOTIONS WITHOUT NOTICE / QUESTIONS WITHOUT NOTICE

12 COUNCILLOR REPORTS

12.1 Mayor's Report

12.2 Verbal Reports from Delegates

13 CONCLUSION OF MEETING

The next Ordinary Council Meeting will be held on Wednesday 16 November 2022 from 9:15am in the Council Chambers, 56 Chanter Street, Berrigan.

There being no further business the Mayor, closed the meeting at [type time](#).