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LITHGOW CITY COUNCIL¶
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9. GOVERNANCE

Policy 9.1

Apologies – By Council

Version 2

9. GOVERNANCE

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9.1 APOLOGIES - BY COUNCIL

OBJECTIVE:

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To provide for circumstances where it would be appropriate for Council or an appropriate member of staff to give a prompt and genuine apology where a member of the public has been given wrong information, or provided with poor service or where the conduct of the Council or its staff falls within the domain of maladministration.

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WHY APOLOGISE?

When things go wrong, many complainants demand no more than to be listened to, understood, respected and, where appropriate, provided with an explanation and apology. Where an apology is warranted it can have great impact if given immediately and in a sincere manner. Even in unclear situations, the act of apologising can be a potent way to appease an aggrieved person. Regardless of who is in the wrong, a prompt and sincere apology for any misunderstanding is likely to work wonders. It often will avoid the escalation of a dispute and the significant cost in time and resources that can be involved.

ARE APOLOGIES AN ADMISSION OF LIABILITY?

In the past councils and their staff were often reluctant to give apologies as this could be taken as an admission of liability leaving them open to action through the courts from a person seeking compensation. However, amendments to the Civil Liability Act 2002, which came into force on 6 December 2002, mean that an apology does not constitute an admission of liability, and will not be relevant to the determination of fault or liability, in connection with civil liability of any kind. Furthermore, evidence of an apology is not admissible in a court hearing as evidence of fault or liability (other than the categories of civil liability excluded by s.3B of the Act).

The general effect of an apology on liability is set out in the Act in the following terms:

- (1) *An apology made by or on behalf of a person in connection with any matter alleged to have been caused by the person:*
 - (a) *does not constitute an express or implied admission of fault or liability by the person in connection with that matter, and*
 - (b) *is not relevant to the determination of fault or liability in connection with that matter.*
- (2) *Evidence of an apology made by or on behalf of a person in connection with any matter alleged to have been caused by the person is not admissible in any civil proceedings as evidence of the fault or liability of the person in connection with that matter.'*

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HOW SHOULD AN APOLOGY BE WORDED?

An apology is defined in the Act as '*an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter*'.

There are many different ways to make an apology. The most appropriate form and method of communication of an apology will depend on the circumstances of the particular case, the detriment suffered, and what is hoped to be achieved by giving the apology (for example restoration of reputation, acknowledgement of the wrong done, reconciliation, assurance that a problem has been addressed or will not recur).

In principle, the most effective apologies are given promptly and sincerely and incorporate the following elements:

- **Scope** – _____ a description of the relevant act or omission to which the apology applies
- **Detriment** – _____ recognition that the affected person has suffered some detriment (which could include embarrassment, damage or loss) and acknowledgement of the types of detriment suffered (including both detriment immediately caused by the act or omission and any consequential detriments)
- **Cause** – _____ an explanation as to how the act or omission came about¹
- **Responsibility** – an acceptance of fault, responsibility or accountability (which could include a statement as to whether the act or omission was discretionary or unintentional)
- **Apology** – _____ an expression of sorrow, sympathy or regret or of a general sense of benevolence or compassion,
- **Action taken or proposed** – the statement of the action taken or specific steps proposed to address the grievance or problem and to ensure it will not recur.²

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WHAT APOLOGIES ARE NOT PROTECTED BY THE ACT?

The protections under the Act do not apply to all civil proceedings. The types of civil liability that are not covered by the protection for apologies can be briefly summarised as liabilities for:

- a) an intentional violent act done with intent to cause injury or death (including sexual assault or misconduct).
- b) the contraction of a dust disease.

¹ Care should be exercised in relation to any statements as to how an act or omission occurred because, although the protection extends to the apology and information conveyed in the apology would not therefore be admissible, the apology may convey information that can be used to obtain information in an admissible form in other ways for use in court proceedings.

² In proceedings relating to liability for negligence, the subsequent taking of action that would (if taken earlier) have avoided a risk of harm does not of itself give rise to or affect liability in respect of the risk or constitute an admission of liability in connection with the risk. In the limited circumstances (discussed overleaf) where the protections of the Act do not apply to an apology, it may still be appropriate to offer an expression of sympathy or regret.

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- c) personal injury allegedly caused by smoking or the use of tobacco products.
- d) economic loss, non-economic loss or psychological/psychiatric injury to an injured person and liability for the compensation of relatives of a deceased person that arises:
 - from a motor accident (or transport accident as defined in the *Transport Administration Act 1988*) to which the *Motor Accidents Act 1988* applies
 - from a motor accident or public transport accident to which the *Motor Accidents Compensation Act 1999* applies
- e) damages payable by an employer for the injury of a worker or the death of a worker resulting from or caused by an injury.
- f) compensation under the *Workers Compensation Act 1987*, the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*, the *Workers' Compensation (Dust Diseases) Act 192*, the *Victims Support and Rehabilitation Act 1996* or the *Anti-Discrimination Act 1977* or for a benefit payable under the *Sporting Injuries Insurance Act 1978*.

An apology should not be made in any matter that falls (or is thought to fall) into any of the categories listed in s.3B until legal advice has been obtained. This approach is recommended because an apology provided in such a matter may act as an admission of liability and may therefore breach a contract of insurance held by the council. When legal advice is sought by a council in such circumstances, the council should clearly ask its legal adviser to consider whether a 'without prejudice' offer of an apology could still be made, as it may facilitate an agreement between the parties that settles the matter.

Where even an expression of sympathy or regret is considered too sensitive to issue, subject to legal advice, a statement could still be offered that:

- describes or explicitly acknowledges the grievance or alleged problem (but only in general terms without referring to causation or acknowledging liability), and
- states the action taken or the specific steps that are proposed to help address the grievance or alleged problem.

It should also be recognised that where an apology can not be used in court to prove fault or liability on the part of the person or body that made the apology, on the other hand the giving of the apology does not absolve the person or body from any potential liability.

WHAT DOES THIS MEAN FOR COUNCIL?

The most common instances where it would be appropriate for council or an appropriate member of staff to give a prompt and genuine apology will be where a member of the public has been given wrong information, or provided with poor service or where the conduct of the council or its staff falls within the domain of maladministration.

An apology may also be made in circumstances where a member of the public alleges that they were defamed. In such cases, however, an apology should not be made until legal advice has been obtained and considered as there are many technical issues that apply and the manner and expression of the apology can affect any potential future proceedings.

Although the range of exclusions from the operation of the apologies provisions of the Act appears at first glance to be extensive, in practice the exclusions have little relevance to the vast majority of the day-to-day interactions between councils or their staff and members of the public.

(Acknowledgement: Information in Part provided by NSW Ombudsman Council Fact Sheet No 5.)

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9. GOVERNANCE

Policy 9.3

BUSINESS ETHICS

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9. GOVERNANCE

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9.3 BUSINESS ETHICS

OBJECTIVE:

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To ensure Councillors and staff display the highest possible standard of business ethics consistent with Council's Codes.

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COUNCIL EXPECTS THAT COUNCILLORS AND STAFF WILL:

1. Observe the principals detailed in the Council's Code of Conduct, when carrying out their duties, with specific attention to ensure actions are done with:
 - Integrity
 - Leadership by example
 - Selflessness
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Respect
2. Councillors and staff will respect the policies and procedures of the Council and will:
 - Treat all tenderers for the supply of goods and services equitably;
 - Promote fair and open competition while seeking value for money;
 - Make decisions using principals of procedural fairness;
 - Respond promptly, efficiently and effectively to reasonable requests for advice and information;
 - Avoid situations where public interest could conflict with public duty;
 - Prevent the misuse or disclosure of privileged information, including confidential Council information;
 - Never solicit or accept gifts or remunerations or benefits from a supplier for the discharge of official duties and adhere to the Council's Code of Conduct requirements in this regard.

COUNCIL EXPECTS TENDERERS, SUPPLIERS, CONSULTANTS AND CONTRACTORS TO:

1. Respect the conditions expressed in Council documents supplied;
2. Respect the obligation of Council to abide by its policies and procedures;

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3. Prevent the misuse or disclosure of privileged information, including confidential Council information;
4. Refrain from offering councillors or staff inducements which may give any impression of unfair advantage;
5. Abstain from collusive practices;
6. Avoid the disclosure of potential conflicts of interest;
7. Provide accurate information where required;
8. Not to act fraudulently or secretly.

APPARENT BREACHES

Where there is a suspected breach of the Business Ethics, the matter should be immediately brought to the attention of the General Manager.

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The processes described in Council's Protected Disclosures Policy may assist those wishing to make disclosures.

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9. GOVERNANCE

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9.7 GIFTS AND BENEFITS - COUNCILLORS AND STAFF

OBJECTIVE:

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To ensure the reputation for integrity and professionalism of Council officials (Councillors and Council Staff) is achieved and maintained through community confidence that Council officials are not influenced by gifts, benefits or bribes.

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THE OBLIGATION

Council officials and staff should not accept or seek any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence the Council official:

- to act in a particular way (including making a particular decision),
- to fail to act in a particular circumstance, or
- to otherwise deviate from the proper exercise of their Council official duties.

GIFTS AND BENEFITS

Gifts or benefits include, but are not limited to, free (or less than market value) accommodation, entertainment (eg, tickets to major sporting events, concerts, etc), hospitality (eg, meals, alcohol at a major event or travel).

GIFTS AND BENEFITS REGISTER

Council officials are required to record gifts and benefits received where it cannot reasonably be refused or returned, excluding token gifts or benefits, as follows:

- In annual disclosure of interest written returns within three months after 30 June in any year pursuant to Section 9(3) of the Local Government Act 1993; and/or
- The Gifts and Benefits Register established for the purpose.

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GIFTS OR BENEFITS GUIDELINES

Gifts or benefits

You must not:

- seek or accept a bribe or other improper inducement
- by virtue of your position acquire a personal profit or advantage which has a monetary value, other than one of a token value.

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You must not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended or likely to influence you to:

- act in a particular way (including making a particular decision)
- fail to act in a particular circumstance
- otherwise deviate from the proper exercise of your official duties.

Token gifts and benefits

You may accept gifts or benefits of a nominal or token value that do not create a sense of obligation on your part.

Generally speaking, token gifts and benefits may include:

- gifts of single bottles of reasonably priced alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- free or subsidised meals, of a modest nature, and/or beverages provided infrequently (and/or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business
- free meals, of a modest nature, and/or beverages provided to Council officials who formally represent their Council at work related events such as training, education sessions, workshops
- refreshments, of a modest nature, provided at conferences where you are a speaker
- ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages
- invitations to appropriate out of hours "cocktail parties" or social functions organised by groups, such as, Council committees and community organisations.

Gifts of value

You must never accept an offer of money, regardless of the amount.

In general, you must not accept gifts and benefits that have more than a nominal or token value. These include tickets to major sporting events, corporate hospitality at a corporate facility at a sporting venue, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel and free training excursions.

If you receive a gift of more than token value in circumstances where it cannot reasonably be refused or returned, you should accept the gift and disclose this promptly to your supervisor, the Mayor or the General Manager. The supervisor, Mayor or General Manager will ensure that any gifts received are recorded in the Lithgow City Council Gifts and Benefits Register.

You must avoid situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind, is securing or attempting to influence or secure a favour from you or the Council.

You must also take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that could appear to an impartial observer to be an attempt to influence or secure a favour. Immediate family members ordinarily include parents, spouses, children and siblings.

Councillors and designated persons must by law disclose a description of any gift or gifts totalling a value exceeding \$500 made by the same person during a period of 12 months or less. (Required to be included in the Disclosure of Interest's Returns).

Improper and undue influence

You must not take advantage of your position to improperly influence other Council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else.

You must not take advantage (or seek to take advantage) of your status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for yourself or for any other person or body.

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9. GOVERNANCE

9.10 PROVISION OF INFORMATION TO AND INTERACTION BETWEEN COUNCILLORS AND STAFF

OBJECTIVES:

The objectives of this policy are to:

- provide clear communication channels to ensure the speedy provision of accurate information.
- provide appropriate sanctions for non-compliance.
- provide a documented process on how councillors can access Council records.
- ensure councillors have access to all documents necessary for them to exercise their statutory role as a member of the governing body of the Council.
- ensure that councillors receive advice to help them in the performance of their civic duty in an orderly and regulated manner.
- provide direction on councillors' rights of access to council buildings.
- provide a clear and consistent framework for the reporting of, and appropriate application of sanctions for, breaches of this policy.

POLICY:

INAPPROPRIATE INTERACTIONS

The Council has determined that the following interactions are inappropriate:

- councillors approaching members of staff for information on sensitive or controversial matters, other than the General Manager, Group Managers or other staff nominated by the General Manager and as advised to councillors.
- members of staff approaching councillors directly (other than via the General Manager and their Group Manager on staffing or political issues).
- councillors approaching staff outside the council building or outside hours of work to discuss Council business.
- staff refusing to give information which is available to other councillors to a particular councillor because of the staff member's or councillor's political views.
- councillors who have a development application before the Council discussing the matter with staff in staff-only areas of the Council.
- councillors entering general staff only areas with the exception of the intention to visit the office of the General Manager or Group Managers.
- staff being asked to answer questions or provide documents to councillors who are overbearing or threatening.
- councillors directing or pressuring staff in the performance of their work, or recommendations they should make.
- staff providing advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community.

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STATUTORY PROVISIONS OF COUNCILLORS AND STAFF

Chapters 9 and 11 of the *Local Government Act 1993* set out the statutory roles and duties of councillors and the General Manager. The introduction to Chapter 9 states that "each council is a statutory corporation. The councillors are the governing body of the corporation and they have the responsibility of directing and controlling the affairs of the council in accordance with this Act." Chapter 9 includes the following provisions.

1. The governing body (s.222)

The elected representatives, called "councillors", comprise the governing body of the Council.

2. The role of the governing body (s.223)

The role of the governing body is to direct and control the affairs of the Council in accordance with this Act.

3. The role of the Mayor (s.226)

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council
- to exercise such other functions of the Council as the Council determines
- to preside at meetings of the Council
- to carry out the civic and ceremonial functions of the mayoral office.

4. The role of a Councillor as a member of the Governing Body (s.232(1))

The role of a councillor is, as a member of the governing body of the Council:

- to direct and control the affairs of the council in accordance with this Act (for example, input into preparation of council's management plan, financial plan and management structure);
- to participate in the optimum allocation of the council's resources for the benefit of the area (for example, providing input into deciding priorities for construction and maintenance work);
- to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions; and
- to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.

5. The role of a councillor as an elected person (s.232(2))

The role of a councillor is, as an elected person:

- to represent the interests of the residents and ratepayers;
- to provide leadership and guidance to the community; and

- to facilitate communication between the community and the council.

6. The role of the General Manager (s.335(1))

The General Manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

7. The functions of the General Manager (s.335(2))

The General Manager has the following particular functions:

- to manage the Council on a day-to-day basis;
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
- to appoint staff in accordance with an organisational structure and resources approved by the Council;
- to direct and dismiss staff; and
- to implement the council's equal employment opportunity management plan.

ACCESS TO COUNCIL RECORDS BY COUNCILLORS

1. Statutory Provisions

Section 12 of the *Local Government Act 1993* provides that the council must provide access to the current version of certain council documents free of charge to all members of the public. These documents are:

- Council's code of conduct
- Council's code of meeting practice;
- annual report;
- annual financial reports;
- auditor's report;
- ~~Operational Plan and Delivery Program;~~
- EEO management plan;
- the Council's land register;
- ~~Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, councillors;~~
- register of investments;
- returns of the interests of councillors, designated persons and delegates;
- business papers for council and committee meetings (but not including business paper for matters considered when a meeting is closed to the public);
- minutes of Council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public);

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- the register of current declarations of disclosures of political donations to Councillors kept in accordance with Section 328A;
- the register of Councillor voting on planning matters kept in accordance with section 375A;
- minutes of Council and committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:
 - a) the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and
 - b) such other matters as the council or committee resolves should be made public;
- any Codes referred to in this Act;
- register of delegations;
- annual reports of bodies exercising delegated council functions;
- local policies adopted by the council concerning approvals and orders;
- records of approvals granted and decisions made on appeals concerning approvals;
- records of building certificates;
- plans of land proposed to be compulsorily acquired by the council;
- leases and licenses for use of public land classified as community land;
- plans of management for community land;
- environmental planning instruments, development control plans and plans made under s.9 AB of the Environmental Planning and Assessment Act 1979 applying to land within the council's area;
- the statement of affairs, the summary of affairs and the register of policy documents required under the [Government Information Public Access Act 2009 \(GIPA\)](#); and
- Directorate representatives' reports presented at a meeting of the council according to s. 33.

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[The Government Information Public Access Act 2009 \(GIPA\) also include provisions for member of the public to a general right of access to Council documents.](#)

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2. Procedures

Access to a council file, record or other document can only be provided according to this policy to ensure that access is obtained in ways that are legal and appropriate. This policy does not limit or restrict statutory or common law rights of access.

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Councillors can request the General Manager, the public officer or a person nominated by the General Manager to provide access to a particular Council record.

Councillors who have a personal (as distinct from civic) interest in a document of Council have the same rights of access as any other person.

Councillors are entitled to access to all Council files, records or other documents where that document is identified in s.12 of the Local Government Act or to a matter currently before the Council.

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The General Manager shall not unreasonably decide that a document is not relevant to the performance of the councillor's civic duty and deny access to a Council document.

The General Manager must state the reason for the decision if he/she refuses access.

Councillors can request access to other documents of the Council either by a Notice of Motion to the council or a GIPA Act application with the appropriate fee.

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The General Manager, public officer or a person identified by the General Manager shall keep a record of all requests by councillors for access to information (other than those listed in s.12 of the Local Government Act, the GIPA Act or by a Notice of Motion at a Council meeting). These requests must be reported regularly (at least every 6mths) to the Council.

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INTERACTION BETWEEN COUNCILLORS AND COUNCIL STAFF

1. During Meetings

The interaction between councillors and staff at Council meetings and committee meetings is regulated by:

- s.360 of the Local Government Act;
- cl.2 9 of the Local Government (General) Regulation;
- Council's Code of Conduct and;
- Council's Code of Meeting Practice.

Section 360 of the *Local Government Act* enables the Council to make regulations in regard to the conduct of meetings, adopt codes of meeting practice and states the meetings must be conducted in accordance with the code of meeting practice.

Clause 2 9 of the *Local Government (General) Regulation* and Council's Code of Meeting Practice details how, in Council meetings, councillors can ask questions of other councillors by going through the chairperson. The regulation also details the process councillors must follow if they wish to ask a question of council staff, by going through the General Manager.

2. Outside of Meetings

The Local Government (General) Regulation (c1.2 9) makes provision for a councillor to obtain information at a council meeting, or by a Question on Notice at a Council meeting.

The General Manager is responsible to the Council for performance and direction of all staff and day to day management of Council. Therefore, it is appropriate that all requests for information and approaches to staff outside the forum of a Council or committee meeting, be directed to the General Manager, or person/s nominated by the General Manager.

Only the General Manager, Group Managers or other staff nominated by the General Manager and as advised to councillors can provide advice to councillors.

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It is within the discretion of the General Manager to require councillors to make an appointment with a senior officer, to put a request in writing, or to put it on notice to the Council to obtain detailed or otherwise time consuming information. The General Manager must indicate in writing, the reasons for refusing a request.

For all but straightforward advice on administrative matters, councillors should put their requests for information or advice in writing to be answered by the General Manager or the appropriate senior officer. These written requests than form part of Council records and can be filed appropriately.

A senior officer has the discretion to refer any request for information to the General Manager. The senior officer must indicate to the councillor their reasons for the referral.

If a councillor is concerned about any refusal to provide information they should firstly raise the matter with the General Manager (or the Mayor if it was the General Manager who refused to provide the advice). If the councillor is still dissatisfied they should request the information by way of a Question on Notice to the Council.

Councillors must not attempt to direct staff as to the performance of their work. Staff must report all such attempts immediately to their Group Manager or the General Manager.

Councillors must not request staff to undertake work for the councillor or any other person.

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A councillor, member of staff or delegate must not take advantage of their official position to improperly influence other councillors, member of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person.

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ACCESS TO COUNCIL OFFICES

As elected members of the Council, councillors are entitled to have access to the Council Chamber, Mayor's Office and public areas of the Council's buildings.

Councillors who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.

Councillors are not permitted to enter general staff only areas with the exception of where access to the office of the General Manager, or Group Managers.

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Where a councillor wishes to meet with the General Manager or Group Managers, an appointment should be made wherever possible.

Where immediate access is required to the General Manager or Group Managers, a councillor should inform staff at the public reception area of their wish to meet with a member of staff and wait at that location until the arrival of the member of staff required.

The General Manager provides secretarial services through the Executive section and will instruct staff to provide secretarial support on particular matters as required.

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BREACHES OF THIS POLICY

Sanctions may be applied if this Policy is breached. Sanctions may, depending on the scale or severity of the breach, include the following:

- require the councillor to apologise to the person concerned;
- request a formal apology;
- counsel the councillor;
- reprimand the councillor;
- resolve to make its decision on the matter public;
- pass a censure motion at a council ;
- make public disclosures of inappropriate conduct (such as making the community aware of the breach through the media or annual report);
- refer the matter to an appropriate investigative body if the matter is serious; and/or
- prosecute any breach of the law.

Sanctions for staff will be imposed by the General Manager by virtue of the authority of the General Manager conferred by section 335 (2) of the Act. Sanctions may, depending on the severity, scale and importance of the breach, include:

- counselling the staff member;
- instituting council disciplinary proceedings; or
- dismissal.

1. Reporting

All occasions of a councillor or staff member not complying with this policy should be immediately reported to the General Manager.

Where the report relates to the conduct of a councillor, the General Manager shall immediately review the misconduct and determine of necessary to report to the Code of Conduct Committee.

Where the report relates to the conduct of staff, the General Manager shall deal with the matter according to the terms of employment of the staff member. Proven breaches should also be dealt with accordingly, that is, by counselling, disciplinary action or dismissal.

Where a councillor believes that the General Manager has failed to comply with the policy, the councillor shall immediately report to the Mayor who will report the matter to the Council.

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Reference:	<u>Dataworks: Policy Register</u>	Council Policy No:	<u>9.10</u>	Effective Date:	<u>21 Oct 08</u>
Min No:	<u>V1 - 06-349 V2 - O08-165 V3 -</u>	Version No:	<u>3</u>	Review Date:	<u>Oct 2013 Sept 2013</u>

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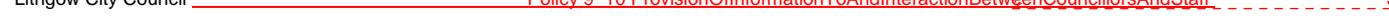


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9. GOVERNANCE

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LITHGOW CITY COUNCIL¶

Policy 9.16

COUNCIL WORKSHOPS AND BRIEFING SESSIONS

Version **2**

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9. GOVERNANCE

9.16 DRAFT COUNCIL WORKSHOPS AND BRIEFING SESSIONS

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OBJECTIVE:

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To allow the mayor, elected councillors and senior management staff to:

- Exchange information (sometimes confidential) on proposals that are being worked on by staff or proposals that councillors would like to see investigated.
- Provide a forum for discussion on proposed staff initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Assist councillors/executive staff in team building.
- Help develop trust and understanding between those who attend the workshops.

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POLICY:

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The Council has resolved to hold regular workshops and briefing sessions to ensure effective communications and information flow between staff and councillors.

Under the Local Government Act 1993, a council can hold a workshop (or sometimes called a briefing session) under its general powers as a body corporate. Workshops are informal gatherings and can provide useful background information to councillors on the business of council. Workshops may involve councillors, council staff and invited participants.

DECISIONS

Under the terms of the NSW Local Government Act 1993 and the Meetings Practice Guidelines issued by the Department of Local Government workshops or briefing sessions CANNOT make a decision or issue a direction to staff or councillors.

FORMAT

- The workshops are to be chaired in rotation and in alphabetical order by councillors.
- There will be no standing orders or formal meeting procedures.
- Those attending the workshop should be respectful and show courtesy for the person that is talking.

The General Manager, Group Managers and other staff will provide a brief update on their responsibility area(s).

Deleted: **AGENDA**
Councillors and staff are encouraged to have issues and information reports put onto an agenda that will be prepared in preparation for the meeting. These may consist of notes, memorandums and draft reports, but not including recommendations. Such information is to be provided to the General Manager, or their delegate, five days prior to the session.

REPORT

A report shall be kept of matters discussed.

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9. GOVERNANCE

Policy 9.19

WORK HEALTH SAFETY POLICY

Version 1

9. GOVERNANCE

9.14 WORK HEALTH AND SAFETY (WHS) POLICY

OBJECTIVE

Establish a process for development of WHS objectives and develop plans in order to meet these objectives:

- Provide documented evidence of Council's commitment to adopting Work Health and Safety principles as an integral part of operations and decision making in all facets of Council's operations;
- Provide a framework for the prevention of accidents, injuries and illness at Council's place of work for workers, visitors, contractors, sub-contractors, volunteers and work experience people.
- Promote and manage Work Health and Safety
- Provide opportunities for improved performance levels of Work Health and safety throughout the organisation.

POLICY

The Work Health and Safety (WHS) of all people employed at Lithgow City Council and those people visiting the organisation is considered as utmost importance when assessing risks to health and safety.

Resources will be made available to comply with all relevant WHS legislation, including the WHS regulation to ensure the Council workplace is safe and without risk to health.

POLICY STATEMENT

Lithgow City Council, the Person Conducting a Business or Undertaking (PCBU), accepts responsibility for the work health and safety of its workers at all Council workplaces. Council will comply with all statutory requirements with regard to work health and safety and take all reasonably practicable steps to establish and maintain an effective work health and safety programme.

Council will, as far as is reasonably practicable;

- Protect workers against harm to their health, safety and welfare through the elimination, or if not possible, minimisation of risks arising from work, plant or substances
- Provide and maintain workplaces where the work environment is without risk.
- Provide and maintain safe systems of work.
- Provide for the safe use and handling of plant, structures and substances
- Provide adequate facilities for the welfare at work of all workers in carrying out their business for the PCBU

- Provide fair and effective workplace representation, consultation, cooperation and issue resolution in relation to work health and safety.
- Promote the provision of information, instruction, training and supervision necessary to protect persons from risks to health and safety arising from the work.
- Protect the health of workers and the conditions at the workplace by monitoring for the purpose of preventing illness or injury arising from the business.
- Encourage unions and the LGNSW to take a constructive role in promoting improvements in work health and safety practise to achieve a health and safe working environment.

To implement the general provisions of this policy, a program of activities and procedures will be set up, continually monitored and updated effectively. This program will relate to all aspects of WHS including:

- WHS training and education
- Work design, workplace design and standard work methods
- Changes to work methods and practice, including those associated with technological change
- Safety rules; including penalties
- Emergency procedures and drills
- Provision of WHS equipment, services and facilities
- Workplace inspections and evaluations
- Reporting and recording of incidents, accidents, injuries and illnesses; and
- provision of information to employees Contractors and sub-contractors

RESPONSIBILITIES

General Manager: is an officer of the PCBU and must exercise due diligence, ensuring the business or undertaking fulfils its health and safety obligations under the *Work Health and Safety Act 2011*. In particular;

- Ensuring there is an appropriate risk management system in place to meet the statutory obligations of the Council under the WHS Act 2011 and the WHS Regulations 2011;
- Ensuring Policy framework to promote a safe and health workplace is in place, at the Council level, for all Council workers;

Group Managers: are officers of the PCBU and must exercise due diligence, ensuring their area of business or undertaking fulfils its health and safety obligations under the *Work Health and Safety Act 2011*.

Managers at all levels within the scope of their authority are responsible for ensuring:

- Review performance of their operational area of responsibility to ensure compliance with Council's risk management procedures;
- As required provide information on the operations area's contribution to the Council's Work Health and Safety performance;
- Review the performance of managers ensure that performance review criteria are incorporated into the performance appraisal as part of promoting a safer Council;

- Undertake the performance review of managers, supervisors and workers and where necessary draw attention to the need to improve performance with regard to implementing Work Health and Safety Policies and Procedures;
- Necessary guidance is provided and support to managers to assist them to improve the safety performance of their operational areas;
- To work cooperatively with supervisors a manner that allows for systematic identification of all reasonably foreseeable events and hazards.

Managers: are officers of the PCBU and must exercise due diligence, ensuring their area of business or undertaking fulfils its health and safety obligations Work Health and Safety Act 2011.

Managers at all levels within the scope of their authority are responsible for ensuring:

- They are satisfied the operational areas for which they are responsible have the capacity to undertake the tasks in a safe manner;
- All foreseeable hazards have been identified;
- Adoption of determining risks is suitable for producing dependable assessments;
- Resources, technical expertise, skills and training are provided by Council to enable workers to implement the proposed risk measures;
- Undertake the performance review of supervisors and workers and where necessary draw attention to the need to improve performance with regard to implementing Work Health and Safety Policies and Procedures;

Supervisors: are officers of the PCBU and must exercise due diligence, ensuring their area of business or undertaking fulfils its health and safety obligations Work Health and Safety Act 2011.

Supervisors at all levels within the scope of their authority are responsible for ensuring:

- Prior to work commencing, consultation with workers is conducted to identify all foreseeable hazards and a risk assessment is conducted in relation to these identified hazards
- Be satisfied that the adopted risk management procedures create workable solutions for controlling the assessed risks.
- Resources, technical expertise, skills and training are provided by Council to enable workers to implement the proposed risk measures;
- Undertake the performance review of workers and where necessary draw attention to the need to improve performance with regard to implementing Work Health and Safety Policies and Procedures;
- Managers are advised of any identified training requirements.

Workers: Workers are responsible for:

- Carrying out duties in a manner which does not adversely affect their work health and safety or that of others.
- Cooperate in the use of measures introduced in the interest of work health and safety

- Undertake any training provided in relation to WHS
- Immediately report all matters which may affect work health and safety to their supervisor
- Correctly use any information, training, personal protective equipment and safety devices provided.
- Not intentionally misuse or recklessly interfere with anything provided for health and safety reasons
- Undertaking tasks for which they have authorisation and or necessary training, and for which all necessary safety arrangements are in place.

Others

Health and Safety Committee

The workplace health and safety committee has a duty to:

- Facilitate cooperation between the PCBU and workers in instigating, developing and carrying out measures designed to ensure the health and safety of workers
- Assist in the development of standards, rules and procedures relative to health and safety.
- Other functions prescribed by the regulations or agreed between the PCBU and the committee
- Meet every month at a reasonable time or when requested by half of the members of the committee.
- Consult with the workers on matters of WHS.

Health and Safety Representatives (HSR)

HSR's play a positive role in representing the health and safety interests of workers and their work groups by:

- Investigating health and Safety concerns raised by workers of their work group
- Research and analyse any matter that might be a risk to health and safety of the workers in their work group
- Monitor the health and safety action taken by the PCBU
- Assist with resolution of health and safety issues through ongoing consultation and representation.

Contractors and Sub-contractors

All contractors and sub-contractors engaged to perform work at any Council workplace are required to comply with Council's WHS policies and procedures and observe directions with regard to health and safety from designated officers of Council.

DEFINITIONS

WHS Legislation – Work Health and Safety Act 2011 and Work Health and Safety Regulation 2011

Local Authority – means a council or county council under the *Local Government Act 1993*.

Public Authority – means a NSW Government Agency, or **local authority**.

Undertaking or business – Activities carried out by, or under the control of, a person,

- a) Whether alone or with others
- b) Whether or not for profit or gain

Including activities conducted by:

- a) Corporation, partnership,
- b) Unincorporated association
- c) Self employed person
- d) Government agency.

PCBU – business or undertaking conducted by a person including a business or undertaking conducted by a partnership or an unincorporated association.

Officer – the meaning of Section 9 of the Corporations Act 2001. An officer of a Public Authority within the meaning of Section 252 of the Work Health and Safety Act 2011 which states that a person who makes, or participates in making, decisions that effect the whole or a substantial part, of the business or undertaking of a public authority is taken to be an officer of the public authority for the purposes of the Act. Officers at Lithgow City Council are the General Manager, Group Managers, Managers and Supervisors.

Workers - a person who carries out work in any capacity for a person conducting a business or undertaking, including work as:

- An employee
- A contractor or subcontractor; or
- An employee of a contractor or subcontractor; or
- An employee of a labour hire company who has been assigned to work in the person's business or undertaking; or
- An outworker; or
- An apprentice
- A student gaining work experience; or
- A volunteer; or
- A person of a prescribed class

Volunteer – means a person who is acting on a voluntary basis (irrespective of whether the person received out-of-pocket expenses.)

Workplace – a place where work is carried out for a PCBU and includes any place where a worker goes, or is likely to be, while at work.

A place of work includes:

- a vehicle, vessel, aircraft or other mobile structure;
- any waters and any installation on land, on the bed of any waters or floating on any waters.

'Reasonably Practicable' – Section 18 WHS Act – in relation to a duty to ensure health and safety imposed on the PCBU, means that which is or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including

the likelihood of the hazard or risk occurring and the degree of harm that may result. Applying sound risk management principles.

ASSOCIATED LEGISLATION

Work Health and Safety Act 2011 – (WHS Act)

Work Health and Safety Regulation – (WHS Reg)

Corporations Act 2001

Local Government Act 1993.

Maintained by Department:	Organisational Development	Approved by:	Council	Exhibition Date:	
Reference:	Policy Register	Council Policy No:	9.19	Effective Date:	
Min No:		Version No:	01	Reviewed Date:	September 2013
Attachments:					



9. GOVERNANCE

Policy 9.20

RISK MANAGEMENT POLICY

Version 1

9. GOVERNANCE

9.19 RISK MANAGEMENT

OBJECTIVE

To ensure there is in place an arrangement for managing risks in the workplace that complies with the requirements of the Work Health and Safety Regulation at Part 3.1.

Workplace health and safety audits and inspections will be used to assist Council determine the effectiveness of the risk control procedures and to identify any shortcomings in the procedures.

POLICY

This Policy will:

- Provide documented evidence of Council's commitment to adopting risk management principles as an integral part of operations and decision making;
- Promote an atmosphere of risk awareness and willingness to manage risk at all levels of the organisation;
- Provide opportunities for continuously improving performance at all levels of the organisation.

Lithgow City Council has recognised that the management of risk is an essential element of good management and impacts on every facet of Council activity.

Risk Management has been defined as the culture, processes and structures that are directed towards realizing potential opportunities whilst managing adverse effects.

It is a process of continuous improvement that is to be embedded in all the practices and processes of Council.

Risk Management promotes communication between all stakeholders and improved information flow enhances the decision making process.

Lithgow City Council has used AS/NZS ISO 31000:2009 Risk management – Principles and guidelines and HB436:2004 Risk Management Guidelines as the main source of guidance for the development, implementation, consultation and review of its Risk Management system.

Council's assets furnish the foundation on which the continued ability to provide an improved quality of life for its residents and an environment conducive to future development is based. These assets encompass human, fiscal, property and environmental resources.

It is Council's intention to implement this Risk Management System to safeguard and enhance these assets to ensure the achievement of its corporate objectives.

The main objectives of the Risk management Programme are to:

- Maintain the highest possible integrity for services provided by Lithgow City Council;
- Safeguard and enhance Lithgow City Council assets including human, fiscal, property and environment;
- Create an environment where all Lithgow City Council employees will assume responsibility for managing operational, strategic and project risks;
- Achieve and maintain legislative compliance;
- Ensure resources and operational capabilities are identified and responsibility allocated for managing risk;
- Ensure Lithgow City Council can appropriately deal with risk;
- Demonstrate transparent and responsible risk management processes which align with accepted best practice.

This Risk Management System shall cover, but not be limited to, the following areas of Council activity:

- Corporate governance
- Legal compliance
- Strategic, operational and project risks
- Assets
- Human Resources
- Knowledge management
- Financial risk management

The risks associated with these areas of activity will normally be identified and documented in the Risk Register, analysed and managed by responsible officers in each of the functional areas of Council.

Some major projects or activities may require the allocation of specific resources to the risk management process. Budget considerations will necessitate the allocation of funds in order of risk priority.

The Council is responsible for the oversight of the Risk Management System, through the Risk Management Committee, and may obtain advice and guidance from appropriate sources within and outside Council.

RESPONSIBILITIES

The General Manager is responsible for the effective operation of the Risk Management System, and responding to and reporting on significant risks that may arise from time to time.

Managers are responsible for the effective operation of the Risk Management System within their respective departments and the timely reporting of any significant risks that may arise.

All Supervisors in particular, and employees in general, are responsible for avoiding unnecessary risks to themselves, co-workers and the public, Council and private property and Council image, and to report through their supervisors any activities or conditions that may result in unacceptable risks.

The Risk Management System consists of this Risk Management Policy, supported by various other policies that have been endorsed by Lithgow City Council, and further supported by documented Procedures, Guidance Notes, Work Instructions and checklists and any other documentation that may be deemed necessary for the effective implementation, training, operation and monitoring of the Risk Management System within Lithgow City Council.

ASSOCIATED LEGISLATION AND GUIDES

Work Health and Safety Act 2011 – (WHS Act)

Work Health and Safety Regulation – (WHS Regulation 2011)

AS/NZs ISO 31000:2009 Risk Management – Principles and guidelines

HB 436:2004 Risk Management Guidelines

Maintained by Department:	Organisational Development	Approved by:	Council	Exhibition Date:	
Reference:	Policy Register	Council Policy No:	9.20	Effective Date:	Date of Council resolution to adopt
Min No:		Version No:	01	Review Date:	January 2013
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