



**ATTACHMENTS TO REPORTS OF THE BLAYNEY SHIRE COUNCIL MEETING
HELD ON MONDAY 15 JULY 2019**

CORPORATE SERVICES REPORTS

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BLAYNEY SHIRE COUNCIL



AGENCY INFORMATION GUIDE

Prepared in accordance with the provisions of Section 20 of the
Government Information (Public Access) Act 2009.

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STRUCTURE AND FUNCTIONS OF COUNCIL

INTRODUCTION

Blayney Shire Council has adopted this Agency Information Guide (Guide) in accordance with section 20 of the Government Information (Public Access) Act 2009 (GIPA Act).

By describing Council's functions, responsibilities and organisational structure, the Guide aims to promote a better understanding of Council's work in our community. It also describes the various types of information held by Council, how that information can be accessed and how members of the public can participate in Council's decision making processes.

OVERVIEW

Blayney Shire Council is constituted under the Local Government Act 1993 and was proclaimed in August 1978.

The Council is an undivided area, with seven (7) Councillors. The Mayor is elected for a 2 year term by the Councillors from among their numbers.

The roles of the Councillors, as members of the body corporate are:

- to direct and control the affairs of the Council in accordance with the Local Government Act and other applicable legislation;
- to participate in the optimum allocation of the Council's resources for the benefit of the area;
- to play a key role in the creation and review of the Council's policies, objectives and criteria relating to the exercise of the Council's regulatory functions;
- to review the performance of the Council and its delivery of services, management plans and revenue policies of the Council;

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;
- to facilitate communication between the community and the Council.

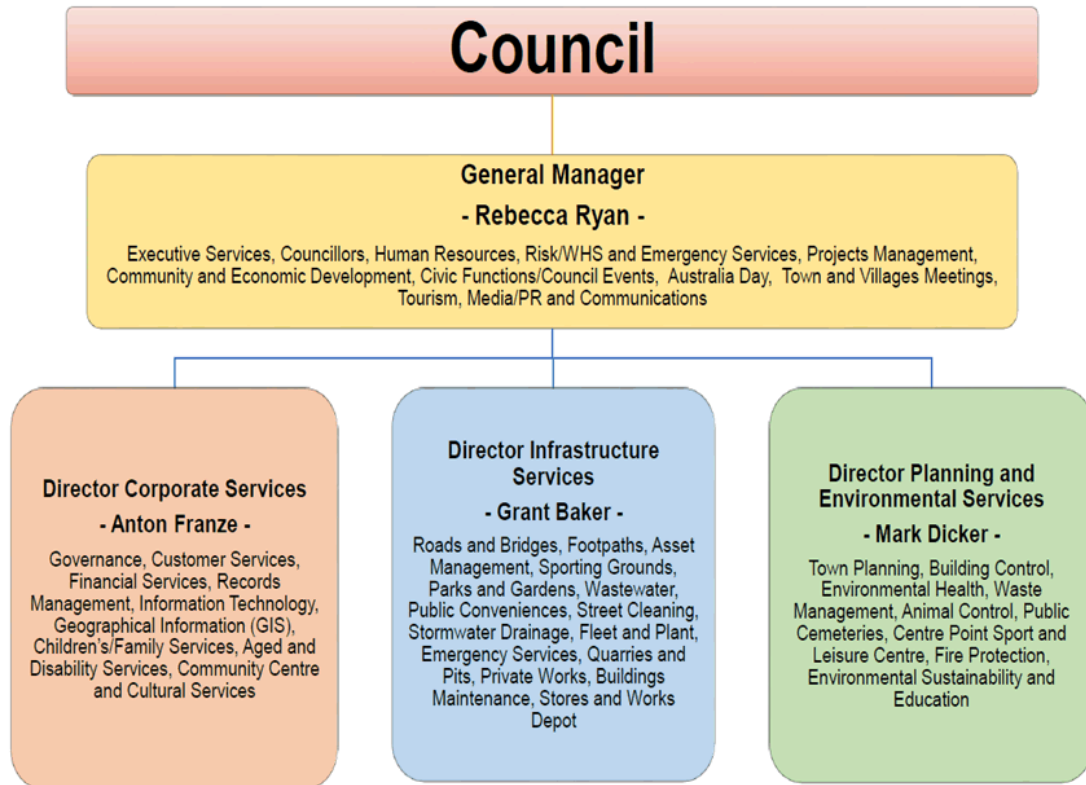
The Mayor presides at meetings of the Council, carries out the civic and ceremonial functions of the office, exercises, in cases of necessity, the decision making functions of the body politic, between its meetings and performs any other functions that the Council determines.

The Principal Officer of the Council is the General Manager. The General Manager is responsible for the efficient operation of the Council's organisation and for ensuring the implementation of Council decisions. The General Manager is also responsible for the day to day management of the Council, the exercise of any functions delegated by the Council, the appointment, direction and where necessary, the dismissal of staff, as well as the implementation of Council's Equal Employment Opportunity Management Plan.

To assist the General Manager in the exercise of these functions, there are three Directorates of Council. These Directorates are Corporate Services, Planning and Environmental Services and Infrastructure Services. Each of these Directorates is headed by a Director.

ORGANISATIONAL STRUCTURE

The functional structure of the organisation is set out in the below diagram:



COUNCIL FUNCTIONS

Council has functions conferred or imposed on it by the Local Government Act, 1993. These functions are:

SERVICE FUNCTIONS	REGULATORY FUNCTIONS	ANCILLARY FUNCTIONS	REVENUE FUNCTIONS	ADMINISTRATIVE FUNCTIONS	ENFORCEMENT FUNCTIONS
Including: * Provision of community health, recreation, education & information services * Environmental protection * Waste removal & disposal * Land & property, industry & tourism development & assistance * Civil Infrastructure Planning * Civil Infrastructure Maintenance & Construction	Including: * Approvals * Orders * Building Certificates	Including: * Resumption of land * Powers of entry and inspection	Including: * Rates * Charges * Fees * Borrowings * Investments	Including: * Employment of staff * Management plans * Financial reporting * Annual reports	Including: * Proceedings for breaches of the Local Government Act & Regulations and other Acts & Regulations * Prosecution of offences * Recovery of rates and charges

As well as the Local Government Act, Council has powers under a number of other Acts including:

- | | |
|--|---|
| <i>Biosecurity Act 2015</i> | <i>Impounding Act 1993</i> |
| <i>Coastal Management Act 2016</i> | <i>Library Act 1939</i> |
| <i>Community Land Development Act 1989</i> | <i>Privacy & Personal Information Protection Act 1998</i> |
| <i>Companion Animals Act 1998</i> | <i>Protection of the Environment Operations Act 1997</i> |
| <i>Contaminated Land Management Act 1997</i> | <i>Public Health Act 2010</i> |
| <i>Conveyancing Act 1919</i> | <i>Recreation Vehicles Act 1983</i> |
| <i>Environmental Planning and Assessment Act 1979</i> | <i>Roads Act 1993</i> |
| <i>Fire and Rescue NSW Act 1989</i> | <i>State Emergency & Rescue Management Act 1989</i> |
| <i>Fluoridation of Public Water Supplies Act 1957</i> | <i>State Emergency Service Act 1989</i> |
| <i>Food Act 2003</i> | <i>Strata Schemes Development Act 2015</i> |
| <i>Government Information (Public Access) Act 2009</i> | <i>Strata Schemes Management Act 2015</i> |
| <i>Heritage Act 1977</i> | <i>Swimming Pools Act 1992</i> |
| | <i>Unclaimed Money Act 1995</i> |

HOW COUNCIL FUNCTIONS AFFECT MEMBERS OF THE PUBLIC

As a service organisation, the majority of the activities of Blayney Shire Council have an impact on the public. The following is an outline of how the broad functions of Council affect the public.

Service functions affect the public as Council provides services and facilities to the public. These include provision of human services such as child care services and libraries, halls and community centres, recreation facilities, infrastructure and the removal of garbage.

Regulatory functions place restrictions on developments and buildings to ensure that they meet certain requirements affecting the amenity of the community and not endanger the lives and safety of any person. Members of the public must be aware of, and comply with, such regulations.

Ancillary functions affect only some members of the public. These functions include, for example, the resumption of land or the power for Council to enter onto a person's land. In these circumstances, only the owner of the property would be affected.

Revenue functions affect the public directly in that revenue from rates and other charges paid by the public is used to fund services and facilities provided to the community.

Administrative functions do not necessarily affect the public directly but have an indirect impact on the community through the efficiency and effectiveness of the service provided.

Enforcement functions only affect those members of the public who are in breach of certain legislation. This includes matters such as the non-payment of rates and charges and unregistered dogs.

Community planning and development functions affect areas such as cultural development, social planning and involves:

- Advocating and planning for the needs of our community. This includes initiating partnerships; participating on regional, State or Commonwealth working parties; and preparation and implementation of the Community Plan.
- Providing support to community and sporting organisations through provision of grants, training and information.
- Facilitating opportunities for people to participate in the life of the community through the conduct of a range of community events such as Australia Day Awards and Youth Week, as well as promoting events of others.

HOW THE MEMBERS OF THE PUBLIC CAN PARTICIPATE IN COUNCIL'S POLICY DEVELOPMENT AND THE EXERCISE OF FUNCTIONS

There are a number of avenues available to members of the public to enable participation in policy development and the general activities of Council. These avenues can be broken down into two categories, namely:

- representation;
- personal participation.

1. REPRESENTATION

Local Democracy

Councils in New South Wales are elected every four years. The next election for Blayney Shire is scheduled for September 2020.

At each election for Blayney Shire Council, voters elect seven Councillors for a four-year term. The Mayor is elected for a 2 year term by the Councillors from among their numbers. All residents of the area who are on the electoral roll are eligible to vote. Property owners who live outside of the area and rate paying lessees can also vote, but must register their intention to vote on the non-residential roll. Voting is compulsory.

Making Representations to Councillors

Residents are able to raise issues with, and make representations to, the elected Councillors. The Councillors, if they agree with the issue or representation, may pursue the matter on the resident's behalf thus allowing members of the public to influence the development of policy.

Appointments with Mayor

After speaking to Councillors and/or appropriate staff, members of the public may make an appointment with the Mayor to discuss issues that require further attention.

2. PERSONAL PARTICIPATION

Open Council Meetings

Blayney Shire Council meets regularly at Ordinary Council meetings to discuss local issues and make decisions on behalf of the community. All meetings of Council are open to the public and residents are welcome to attend, unless closed for specific reasons under the *Local Government Act*. Ordinary Council meetings are held on the third Monday of the month.

Public Address to Council

Members of the public are able to attend Council meetings (third Monday of each month – except January) in the Blayney Shire Community Centre - Council Chamber, 41 Church Street, Blayney.

The opportunity is offered to interested persons to address Council prior to meetings on any matters that are within its jurisdiction. A [Public Forum Speaker Request Form](#) must be completed and lodged before scheduled deadline of 4.30pm on the day of the Council meeting. Forms are available from Council's website:

<http://www.blayney.nsw.gov.au/Your-Council/Council-Meetings-and-Committees/Public-Participation/Public-Participation>

Section 355 Committees

There are several Committees to which Council has delegated a function of Council to under s.355 of the Local Government Act. Council has the following Community Committees comprising and including members of the public:

- Blayney Shire Access Advisory Committee
- Blayney Shire Audit, Risk and Improvement Committee
- Blayney Shire Council Australia Day Committee
- Blayney Shire Financial Assistance Committee
- Blayney Shire Sports Council
- Blayney Shire Council Tourism, Towns & Villages Committee
- Cemetery Forum

Community Committee meeting times are promoted on Council's website. Invitations for membership of committees are called after Council elections and as committee vacancies arise. Notification of vacancies are publicised on Council's website and in the local newspaper. Members of the public interested in being involved with any community committee should contact Council in the first instance to enquire of any vacancies.

Public Exhibitions / Submissions to Council

Public exhibition of Council documents are a key way for the community to participate in local government. Members of the community can submit feedback on proposed policies, plans, projects or development that Council is considering. Members of the public can, either personally or in writing, address any matter that falls within Council jurisdiction.

Information provided to Council in correspondence, submissions or requests, including personal information such as names and addresses may be made publicly available in accordance with the Government Information (Public Access) Act (GIPA).

INFORMATION HELD BY BLAYNEY SHIRE COUNCIL

Council holds a wide range of information, in both hard copy and electronic form in respect of the wide range of functions undertaken by it. That information is contained in:

1. Records – either physical or electronic
2. Policy documents
3. General Information

1. RECORDS

Prior to 1996 Council had a “hard copy” records system, with material being held as physical records. Since then, Council’s records have been maintained in electronic format, physical records being dispensed with, except for development/building/construction applications.

Council’s records are not available on the website however this information may be made available either by informal release or via an access application, unless there is an overriding public interest against disclosure of the information, in accordance with the provisions of GIPA.

Members of the public who require an informal release or an access application can do so by contacting the Right to Information Officer at Council on telephone (02) 6368 2104.

2. POLICY DOCUMENTS

Council’s policies are maintained in a policy register – access to which is available from Council’s website using the following link:

<http://www.blayney.nsw.gov.au/Your-Council/Council-Policies>

3. GENERAL INFORMATION

The following list of general information held by Council has been divided into four sections as outlined by the Government Information (Public Access) Regulation 2009:-

1. Information about Council;
2. Plans and Policies;
3. Information about Development Applications;
4. Approvals, Orders and other Documents.

The Government Information (Public Access) Regulation 2009 requires that these documents held by Council, are to be made publicly available for inspection, free of charge. The public is entitled to inspect these documents either on Council’s website (unless there is an unreasonable additional cost to Council to publish these documents on the website) or at the offices of the Council during ordinary office hours or at any other place as determined by the Council. Any current and previous documents of this type may be inspected by the public free of charge. Copies can be supplied for reasonable copying charges.

These documents are:

a. Information about Council

- The model code of conduct prescribed under section 440 (1) of the LGA
- Council's adopted Code of Conduct
- Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Community Strategic Plan
- Delivery and Operational Plan including resourcing strategy documentation such as Workforce Plan; Long-term Financial Plan; and Asset Management Plans
- EEO Management Plan
- Payment of Expenses and the Provision of Facilities to the Mayor and Councillors Policy
- Annual Reports of Bodies Exercising Functions Delegated by Council
- Any Codes referred to in the Local Government Act
- Returns of the Interests of Councillors, Designated Persons and Delegates
- Agendas and Business Papers for any meeting of Council or any Committee of Council
- Minutes of any meeting of Council or any Committee of Council
- Departmental Representative Reports presented at a meeting of Council
- Land Register
- Register of Investments
- Register of Delegations
- Register of Graffiti removal works
- Register of current Declarations of Disclosures of Political donations
- Register of Voting on Planning Matters

b. Plans and Policies

- Local Policies adopted by Council concerning approvals and orders
- Plans of Management for Community Land
- Environmental Planning Instruments, Development Control Plans and Contribution Plans

c. Information about Development Applications

Development Applications and any associated documents received in relations to a proposed development:

- Home Warranty Insurance documents
- Construction Certificates
- Occupation Certificates
- Structural Certification Documents
- Town Planner Reports
- Submissions received on Development Applications
- Heritage Consultant Reports
- Tree Inspection Consultant Reports
- Acoustic Consultant Reports
- Land Contamination Consultant Reports
- Records of decisions on Development Applications including decisions on appeals
- Records describing general nature of documents that Council decides to exclude from public view including internal specifications and configurations, and commercially sensitive information

d. Approvals, Orders and Other Documents

- Applications for approvals under part 7 of the LGA
- Applications for approvals under any other Act and any associated documents received
- Records of approvals granted or refused, any variation from Council Policies with reasons for the variation, and decisions made on appeals concerning approvals
- Orders given under Part 2 of Chapter 7 of the LGA, and any reasons given under section 136 of the LGA
- Orders given under the Authority of any other Act
- Records of Building Certificates under the Environmental Planning and Assessment Act 1979
- Plans of land proposed to be compulsorily acquired by Council
- Compulsory Acquisition Notices
- Leases and Licenses for use of Public Land classified as Community Land

HOW MEMBERS OF THE PUBLIC MAY ACCESS AND AMEND COUNCIL DOCUMENTS CONCERNING THEIR PERSONAL AFFAIRS

As far as practicable, Council documents will be accessible by members of the public during office hours.

Persons interested in obtaining access to documents or who wish to seek an amendment to the Council's records concerning their personal affairs, should contact a Customer Service Officer. If you experience difficulty in obtaining documents or information you should contact Council's Public Officer.

ACCESS TO INFORMATION HELD BY THE COUNCIL

Blayney Shire Council is dedicated to good public decision making, transparency and accountability, and will provide access to information in accordance with the provisions of the GIPA Act.

Council has adopted a policy on access to information (Policy 2G: Access to Information), to facilitate public access to the information held by Council. This policy is publicly available from Council's policy register on Council's website using the following link:

<http://www.blayney.nsw.gov.au/Your-Council/Council-Policies>

In accordance with the GIPA Act, Council will make information available to the public in the following ways, unless there is an overriding public interest against disclosure of information:

OPEN ACCESS INFORMATION

Through the mandatory disclosure of open access information (see above, Information Held by Council) – where practicable, this information will be made available free of charge on Council's website. Where it is not practicable for Council to provide open access information on the website, the information will be made available free of charge in at least one other format.

To access information that is not currently available on Council's website, please contact Council's Right to Information Officer on (02) 6368 2104.

PROACTIVE RELEASE OF INFORMATION

Through the proactive release of as much information as possible – this information will be made available free of charge, or at the lowest reasonable cost.

INFORMAL ACCESS REQUESTS

In response to an informal request (without the need for a formal application, unless there are good reasons to require one) – this information will be made available free of charge, subject to any reasonable conditions that may be imposed by Council. Council may require a written record of an informal request to access information.

FORMAL ACCESS APPLICATIONS

In response to a formal access application (for information that Council does not provide proactively or informally) – application fees and processing charges apply as per the GIPA Act.

The GIPA Act sets out the procedure for making and dealing with formal access applications. An application for information that is not already available by other means must be made on the [Formal Access Application](#) form, which is available at the Council Chamber or on Council's website using the following link:
<http://www.blayney.nsw.gov.au/Your-Council/Access-to-Information>

A formal application is not a valid application unless it is accompanied by an application fee of \$30. The application fee counts as payment of the first hour of any processing charge that may be payable by the applicant. Processing charges for dealing with formal access applications are charged at a rate of \$30 per hour for each hour of processing time.

Enquiries regarding formal access applications should be made to Council's Right to Information Officer on (02) 6368 2104.

ADDITIONAL INFORMATION

COPYRIGHT

Some information may be subject to copyright laws and the consent of the copyright owner will be required before releasing copies of such information. Alternatively, Council may grant 'view only' access to such material.

Council's Governance team will advise if the information is subject to copyright.

DISCLOSURE LOG

Council's [Disclosure Log](#) lists information released under a formal access application under the GIPA Act that is considered to be of interest to the wider public.

It should be noted that applicants can object to inclusion in Council's Disclosure Log.

PUBLIC OFFICER – RIGHT TO INFORMATION OFFICER

The Director Corporate Services has been appointed as the Public Officer. Amongst other duties, the Public Officer may deal with requests from the public concerning the Council's affairs and has the responsibility of assisting people to gain access to public documents of the Council. The Director Corporate Services is also Council's Right to Information Officer and, as such, is responsible for determining applications for access to documents or for the amendment of records. If you have any difficulty in obtaining access to Council documents, you may wish to refer your enquiry to the Public Officer. Also, if you would like to amend a document of Council which you feel is incorrect it is necessary for you to make written application to the Public Officer (Right to Information Officer) in the first instance.

Enquiries should be addressed as follows:

General Manager
Blayney Shire Council
PO Box 62
BLAYNEY NSW 2799

Email: council@blayney.nsw.gov.au

INFORMATION AND PRIVACY COMMISSION

If you require any other advice or assistance about access to information you may contact the Information and Privacy Commission by telephone on 1800 472 679 (free call), in person at Level 17, 201 Elizabeth Street, Sydney 2000, in writing to GPO Box 7011 Sydney NSW 2001 or by email at ipcinfo@ipc.nsw.gov.au. Further information may also be obtained from website: www.ipc.nsw.gov.au

Adopted:	11/10/2010	Minute No. 1010/012
Date of Approval by IPC	09/12/2010	
Lasted Reviewed:	20/06/2011	1106/006
	10/12/2012	1212/003
	08/07/2013	1307/006
	14/07/2014	1407/006
	13/07/2015	1507/007
	18/07/2016	1607/012
	17/07/2017	1707/006
	16/07/2018	1807/007
	15/07/2019	
Next Review:	20/07/2020	



Gifts & Benefits Policy

Policy	2E
Officer Responsible	Director Corporate Services
Last Review Date	20/06/2019

Strategic Policy

Purpose of the Gifts and Benefits Policy

- To provide clear guidelines for Councillors, staff members and other representatives of Council to enable them to deal with any offer of a gift or benefit;
- To protect Councillors, staff members and other representatives of Council from being compromised or to avoid the public perception of bias;
- To provide a safe working environment by reducing situations which can cause undue stress and anxiety; and
- To demonstrate to suppliers, citizens and other agencies that Council will deal with all matters in an impartial, transparent and accountable manner.

Background

In carrying out their role as Councillor, staff member and other representative of Council of a local government body, individuals and/or groups may from time to time, be offered gifts to establish an amicable initial business relationship, to display appreciation or demonstrate good faith in an ongoing business relationship.

The acceptance of gifts and other benefits has the potential to compromise a Councillor's and Council employee's position by creating a sense of obligation in the receiver and so undermining their impartiality. The acceptance of a gift can also affect the public's perception of the integrity and independence of the Council and its employees.

To ensure propriety in all such dealings, it is essential that Council adopt a policy and procedure for the acceptance of gifts and benefits, so that all gifts and benefits are declared and recorded in a Gifts and Benefits Register.

This policy has been produced to guide to assist in guiding Councillors, staff members and other representatives of Council during the course of their official duties upon being offered a gift or benefit. The acceptance of gifts and benefits is a potential problem for many public officials. Deciding where to draw the line between the proper and improper acceptance of gifts or benefits can be difficult.

For the purposes of this policy, reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Blayney Shire Council has a zero tolerance rule with respect to compliance with this policy.

Policy Statement

Council officials will act with integrity at all times. Acceptance of gifts and benefits has real and perceived opportunities for undermining integrity.

This Policy sets out the basis on which Blayney Shire Council will manage offers of gifts or benefits in accordance with the obligations set out in Council's Code of Conduct.

You must not:

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

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.

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members include parents, spouses or de facto partners, children and siblings.

Responsibilities

Councillors, Staff Members and Other representatives of Council

The obligation to disclose instances relating to this policy rests with Councillors, members of staff and other representatives of Council and should be in accordance with the gifts and benefits procedures.

Councillors, staff members and other representatives of Blayney Shire Council must comply at all times with this policy and Council's Code of Conduct.

Council staff members and other representatives of Council must complete, the electronic declaration form or the hardcopy declaration form (for those staff members who do not have computer access), for all offers of a gift or benefit and submit the declaration form to their Supervisor, or General Manager (in the case of a Councillor or Director), within two (2) weeks of receiving the offer.

Councillors, members of staff and other representatives of Council, who have prior notice of the receipt of a benefit or hospitality, such as attendance at a sporting event, should receive prior written approval to attend. The recipient is to ensure their declaration is submitted and authorised by the Supervisor or General Manager.

Management

The General Manager, or their delegate, will establish and maintain a Gifts and Benefits Register.

The Supervisor, or General Manager (in case of a Councillor and Directors), must authorise electronically, or sign/date paper copy declaration forms, scan and register the completed document in to Data works, and task to the Director of Corporate Services (as the General Manager's delegate), who will process the information into the Gifts and Benefits Register.

Procurement, Contracts and Tendering

All procurement activities are to be conducted in an ethical manner and in accordance with:-

- Policy 1B Code of Conduct
- Policy 3G Purchases of Goods and Services
- Policy 13A Tender Procedures

Council representatives involved in corporate purchasing or procurement must not accept any form of gift, benefit or from suppliers or potential suppliers.

Council representatives involved in evaluating contracts, expressions of interest, tenders or other proposals must not accept any form of gift, benefit or hospitality from contractors, potential contractors, tenderers or associated parties. Any offer of gifts must be declared in writing as part of the evaluation process.

The recipient of any gift, benefit or hospitality offered and/or received must complete the electronic gift register form and submit it to the Director (or General Manager) for authorisation.

Circumstances where gifts or benefits may be acceptable

Gifts or other benefits not essentially token or inconsequential in kind (including moderate acts of hospitality) should only be accepted:

- where they are not obtained by virtue of a public official's office or position
- where a gift is given to a public official in a public forum in appreciation for the work, assistance or involvement of the public official or an agency, and refusal to accept the gift would cause embarrassment or affront

- if there is no possibility that the recipient might be, or might appear to be, compromised in the process, or
- in circumstances generally approved by the principal officer of the agency, or on any other occasion with the formal written approval of the General Manager, preferably obtained beforehand.

Approval of the General Manager should only be given where the acceptance of the gift is unlikely to be seen by a reasonable 'impartial observer' to create a conflict of interest, or influence the performance of duties or functions.

Gifts Benefits and Bribes

Gifts

For the purpose of this policy, "gifts" made to individuals in the course of a business relationship are usually given for commercial purposes, such as to create a feeling of obligation in the receiver.

Such examples of gifts may include (but are not limited to):-

- Money
- Alcohol
- Clothes
- Products
- Tickets

A councillor or employee should not accept an offer of cash or a cash-like gift, regardless of the amount. "Cash-like gifts" include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

Benefits

For the purpose of this policy, the term "benefit" is used to refer to something which is believed to be of value to the receiver, such as a service. Some examples may include:-

- a. Tickets to major sporting events or other entertainment.
- b. Corporate hospitality at a corporate facility or sporting venue.
- c. A new job or promotion.
- d. Preferential treatment, such as queue jumping.
- e. Access to confidential or sensitive information.
- f. Discounted products for personal use.
- g. Frequent use of facilities such as a gymnasium or holiday home.
- h. Free or discounted travel, Frequent Flyer points and free training sessions.
- i. Free or subsidised lavish meals or hospitality etc.

Bribes

"Bribery" is defined as an inducement by offering any undue reward by, or to any person in public office in order to influence his or her behaviour in that

office, and incline that person to act contrary to the known rules of honesty and integrity.

Councillors, members of staff and other representatives of Council must not offer or seek a bribe. Receiving or offering a bribe is an offence under both Common law and NSW legislation.

A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor, or the General Manager. Council will take steps to report the matter to ICAC and the police immediately.

Token Gifts

Token gifts and benefits of a nominal value usually do not create a sense of obligation on the receiver and are unlikely to influence, or appear to influence, in the exercise of his or her official duties.

Compliance and Exemptions

This policy applies to all staff and Councillors of Blayney Shire Council. Failure to comply with this policy could be considered a breach of the Code of Conduct and may lead to disciplinary action and/or other sanctions, including dismissal.

Blayney Shire Council has a zero tolerance rule with respect to compliance with this policy. Any applications for exemptions from the requirements of this policy are to be in writing to the General Manager. Exemptions are entirely at the General Manager's discretion and will be determined in writing with reasons given for any specific exemptions. In determining an exemption, the General Manager will also determine whether the gift in question is able to be kept by a particular staff member or whether it should be shared at the workplace.

The following are considered exempt:

1. Invitations to appropriate out of hours social functions organised by groups, such as, Council committees and community organisations
2. 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
3. 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
4. Ceremonial gifts – from visiting delegations
5. Ceremonial gifts – from sister cities
6. Industry networking functions hosted by Industry Group at a major event e.g. NSW Tourism group function at Bathurst race event.

Examples of the circumstances where exemptions MAY be approved by the General Manager, include:

- Learn to swim staff of the CentrePoint Sport & Leisure Centre – for gifts of token value children who attend learn to swim classes as a Christmas gift or gift of thanks associated with their role.
- Ceremonial gifts – presented to staff members as thanks for presenting at conferences/seminars
- Ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages

Any gifts approved through the General Manager exemption process will still be subject to the following requirements:

For the purpose of this policy token value is defined as one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50.

~~Token value in relation to this clause is considered to be \$20.00.~~ Any gifts with an estimated value of more than ~~token value \$20.00 are not considered 'token' and~~ should be rejected or returned.

The following gifts and benefits would normally fall below the token value of ~~\$20.00~~:

- inexpensive pens or stationery
- chocolates
- flowers
- modest bottle of wine
- cup of coffee.

By contrast, the following gifts and benefits would be likely to be more than the token value:

- tickets to sporting events
- jewellery
- works of art
- discounted products for personal use
- use of facilities such as gyms.

Ceremonial gifts – an official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation or country. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the organisation, and therefore the gift is considered to be for the organisation, not a particular individual.

Where you have accepted a token gift or benefit from a person, you must not accept a further gift or benefit from the same person or another person associated with that person within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or a person associated with that person, during the same 12-month period would exceed \$50 in value.

Gifts and Benefits Register

All gifts, benefits and hospitality must be declared and recorded in Council's publicly available Gifts and Benefits Register against the name of the recipient. The name of the person who offered the gift and their agency or organisation must also be included.

There must also be a record of the decision that was taken in relation to the gift or benefit, and by the authorising Supervisor, or General Manager (in the case of a Councillor or Director), so that it can be shown that the Council was open and transparent in dealing with the gift or benefit.

Councillors and Designated Persons lodging pecuniary interest returns under Section 449 of the local Government Act, 1993 (NSW) are not required under Schedule 3 of the Act to disclose gifts and benefits under the value of \$500, unless they are among gifts totalling more than \$500 made by the same person over a twelve (12) month period. In the interests of openness and transparency, Designated Persons are also required to declare and record the offer and/or receipt of all gifts or benefits of more than token/nominal value in the Gifts and Benefits Register.

Procedures

- 1 Should you receive a gift or benefit, you must notes immediately after the incident has occurred, detailing the date, time, location, discussion and any other comments that could assist you with your later recollections of the incident.
- 2 Obtain a copy of the Declaration Form, which is available through the Councillor Portal or Council Intranet.
- 3 With regards to the paper copy,
 - They are to be scanned into Council's Corporate Records System.
 - The authorising Supervisor (If they have access) is to record the entry into Council's electronic register.
 - In the event that the Supervisor does not have access, then the authorising director is required to electronically record.
- 4 All gifts and benefits that become the property of Council should be delivered to the General Manager's Office (or his delegate) for appropriate storage or disposal.
- 5 If you have been offered a bribe, you must inform your Director or the General Manager immediately and the General Manager must inform ICAC and the Police.

Related Legislation, Policies and Guidelines

Crimes Act 1900 (NSW) Section 249 of the Crimes Act 1900 (NSW) creates an offence if a Councillor or employee corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person any benefit as an inducement to do, or not do, something in relation to their official duties. This

also pertains to receiving benefits for showing favour or disfavour to any person in relation to their official duties.

Local Government Act 1993 – Section 440 of the Act requires that Councils adopt a Code of Conduct. The section states that serious corrupt, of which bribery is an example, may lead to the dismissal or temporary suspension from office of a Councillor or of a staff member.

Local Government (General) Regulation 2005, clauses 184 & 185 – relating to gifts and contributions to travel pecuniary interests to be disclosed in Section 449 returns.

Blayney Shire Council's Code of Conduct

Gifts and Benefits – Public Agencies Fact Sheet (NSW Ombudsman's Office), March 2012.



GIFTS AND BENEFITS DECLARATION FORM

DEPARTMENT

(Please tick)

- Corporate Services
- Environmental Services
- Infrastructure Services
- Executive Services

YOUR DETAILS

Name:

Title:

Office Location:

Phone No (w):

DETAILS OF GIFT OR BENEFIT

Person who offered gift or benefit:

Company/Organisation:

Date gift or benefit offered: / /

Description of gift or benefit:

Estimated value of the gift or benefit: \$

What did you do with the Gift or Benefit?

Signed: Date: / /

Signed: Date: / /
 (General Manager / Director)

PLEASE FORWARD COMPLETED FORM TO YOUR SUPERVISOR FOR RECORDING INTO COUNCIL’S ELECTRONIC GIFTS REGISTER.

This form is to be only used when the staff member does not have access to the electronic gift register.

Adopted:	12/03/2008	08/048
Lasted Reviewed:	12/03/2008	08/048
	11/04/2011	1104/005
	12/11/2012	1211/014
	16/04/2018	1804/010
Next Review:	19/11/2020	



Risk Management Policy

Policy	21
Officer Responsible	WHS & Risk Coordinator
Last Review Date	Xx/xx/2019

Strategic Policy

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Blayney Shire Council - Risk Management Policy

1. INTRODUCTION:

The Risk Management Policy establishes the framework and context, in terms of how Blayney Shire Council (Council) manages risk.

2. OBJECTIVE:

To provide a consistent approach to risk management across Council in accordance with methodology established in AS/NZS ISO 31000:2009 Risk Management Principles and Guidelines, and other applicable guidelines, procedures, standards and codes of practice.

Enterprise risk management will be embedded into the policy development, strategic and operational planning and review and change management processes.

To ensure Risk Management is integrated into Council's operational considerations and decision making at all levels.

3. CONTEXT:

Council's continued ability to achieve its strategic and operational objectives depends on understanding and responding to the challenges of uncertainty and change. This uncertainty generates risk, with the potential to be a source of both opportunities and threats. By understanding and managing risk Council can provide greater certainty and confidence for all stakeholders.

Responsibility for risk management is shared across all levels of Council.

4. POLICY STATEMENT

Council recognises that risks are an integral part of normal everyday life. Council seeks to take control of risk as good business practice, and allow for risks to be identified, analysed, evaluated and treated.

Council shall manage risks associated with Council operations through:

- Identification of foreseeable risk;
- Assessment of the consequence of an event;
- Implementation of corrective/preventative measures which aim to eliminate if possible, or if not, control or prevent risk according to the hierarchy of control;
- Review or evaluation of the effectiveness of risk control measures;
- Providing instruction, training, information and supervision to support risk control. The requirements of this Plan shall apply to all Councillors, Council employees, contractors (including labour hire and temporary employees) and where applicable volunteers.

A set of descriptors and tables, known collectively as the Risk Rating Tables, or Risk Rating Matrix, are included to assist measuring and evaluating risks and controls and establishes a common language to manage risk and defines Council's level of risk tolerance.

5. DEFINITIONS

Action Plan – a plan formulated for the treatment of a risk. Action plans consider implementing controls, strengthening current controls or introducing additional controls that reduce the likelihood of the risk and/or the impact of the consequences.

Business Continuity Plan - a treatment plan for certain risks when consequences could disrupt core business functions. The plan outlines the actions to be taken and resources to be used before, during and after a disruptive event to ensure the timely resumption of critical business activities.

Consequences - the impact or outcome of an event.

Control - a procedure, system, activity or process that modifies the likelihood and/or consequences of risk.

Event – occurrence or change of a particular set of circumstances.

Hazard – a situation or thing that is the source of potential harm.

IP&R – integrated planning and reporting.

Likelihood - a measure of how likely it is that a certain consequence will eventuate.

Residual Risk – risk remaining after treatment.

Risk - the effect of uncertainty on objectives and is measured as a loss or gain.

Risk Analysis - the process that determines risk by evaluating the effectiveness of existing controls and assigning values for consequences and likelihood.

Risk Acceptance – an informed decision to take a particular risk or accept a level of risk. Risk Acceptance can occur without risk treatment or during the process of risk treatment and is subject to monitoring and review.

Risk Appetite – the amount and type of risk that Council is willing to pursue or retain.

Risk Evaluation - a process of comparing the results of risk analysis to determine whether the risk is acceptable or tolerable.

Risk Identification means a process of finding, recognising and describing risks. The identification of risk includes the identification of the source, the events, their causes and their potential consequences.

Risk Management – the coordinated activities to direct and control Council with regard to risk.

Risk Owner - a person or entity with the accountability and authority to manage a risk.

Risk Rating - a determined value that is assigned to the risk.

Risk Tolerance - a degree that a Council is willing to accept risk, after risk treatment, in order to achieve its objectives.

Risk Treatment – process to modify risk.

Worker – includes Councillors, staff, trainees, labour hire personnel, contractors and volunteers.

6. RISK MANAGEMENT

Risk management is a critical component of Council's overall performance and an essential element of good corporate governance.

A comprehensive understanding of the risk exposures facing Council facilitates effective planning and resource allocation, and encourages a proactive management culture, with flow-on benefits for every aspect of Council's operation, including addressing threats and opportunities.

Risk management is simply the practice of systematically identifying and understanding risks and the controls that are in place to manage those risks.

Risk is the effect of uncertainty on objectives and can be described as:

- Any threat that can potentially prevent Council from meeting its objectives;
- Any opportunity that is not being maximised by Council to meet its objectives.

The process for managing Council's risks is consistent with AS/NZS ISO 31000:2009 Risk management – Principles and guidelines.

Risk management is most successful when it becomes fully integrated into normal operating procedures, processes and systems

Everyone is accountable in managing risk.

Council has developed a detailed implementation framework, which provides a step by step outline for implementing risk management. There is a strong emphasis on training, education and communication, to ensure the skills of managers, supervisors and employees will be developed and maintained.

This policy provides the framework for risk management and provides Blayney Shire Council staff with guidance in how to apply consistent and comprehensive risk management.

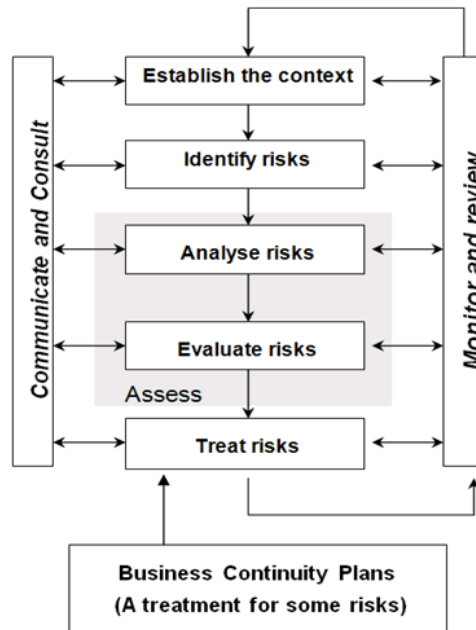


Figure 1: Risk Management Process

7. ROLES AND RESPONSIBILITIES

A commitment to risk management shall exist at all levels of Council.

It is the responsibility of all to ensure that Risk Management is incorporated in all activities undertaken in the workplace.

Councillors

Councillors have overall responsibility for adopting and committing to Risk Management, setting an appropriate risk culture and for oversight of Council's risk management framework. They approve and allocate funding, report to the community and liaise with the General Manager and Directors.

General Manager

The General Manager: -

- Is accountable for the overall management of Blayney Shire Council's Risk Management Policy and its implementation across all aspects of Council business.
- Will display leadership and direction and report to Council and statutory bodies.
- Is responsible for allocation of sufficient resources to support the effective and efficient management of risk and that risk management is aligned to the IP&R objectives and Operational Plan.
- Ensures that Council and Executive Services risks are identified and recorded in the Council Risk Register.
- Is responsible for chairing the Management Executive Group (MANEX) on a weekly basis, with other members being the Directors.

Management Executive Group MANEX

MANEX will oversee the implementation, decide on the direction, monitor and review the risk management process. Risk management is a standing agenda item on the MANEX agenda and reports from the WHS and Risk Coordinator are tabled.

Directors

Directors are accountable for the implementation and currency of this Risk Management Policy and its associated documents within their department. Other responsibilities include ensuring training and resources are available, providing leadership and support, and reporting to MANEX on matters related to risk. Directors ensure that departmental risks are identified and recorded in the Council Risk Register. The Director is the owner of the risks within their Directorate.

Managers

Managers are responsible for implementing and maintaining sound risk management processes in accordance with the Risk Management Policy. It is the responsibility of all Managers to actively promote a culture where risk mitigation is seen as the responsibility of all staff and contractors employed by Council. Managers are accountable for compliance, adherence to time frames, monitoring and review. They provide direction and support to all workers, and report to their Director. Managers are responsible for developing and implementing proposed actions on the Risk Register and ensuring actions are completed in the allocated time frame.

Supervisors

Supervisors are required to create an environment where the management of risk is accepted as the personal responsibility of all workers. Their duties include instruction, monitoring and enforcing risk management process. They assist Council by communicating and consulting with workers, ensuring timely identification of hazards and risks are eliminated or minimised, reviewing effectiveness of controls and reporting incidents. Supervisors report to their Managers and Director.

Workers

All workers shall participate in Risk Management activities and processes to minimise Council's exposure to risk within their area of activity. Worker participation includes the documentation of work methods, processes and risk assessments. Other responsibilities include attending training in risk management, reporting unsafe acts or any conditions of risk, incidents or injuries and compliance with direction, policies and procedures.

Audit, Risk and Improvement Committee

The Audit, Risk and Improvement Committee is a formally appointed committee of the Council and is responsible to the elected body. The Committee provides independent assurance and assistance to Blayney Shire Council on risk management, control, governance and external accountability responsibilities.

WHS and Risk Coordinator

The WHS and Risk Coordinator's primary responsibility is the coordination, documentation, monitoring and compliance of risk management within Council. The WHS and Risk Coordinator reports directly to the General Manager and responsibilities include providing risk management advice and assistance, distributing information and facilitating training in risk management for all Council workers.

8. COMMUNICATION AND CONSULTATION

Communication and consultation are important elements in each step of the risk management process. Ongoing stakeholder engagement is crucial for success in the identification and management of risk. Effective communication ensures those accountable for risk management and those with a vested interest, understand the basis on which risk management decisions are made and why particular strategies are implemented. It is important that the communication approach recognises the need to promote risk management concepts across all workers.

Communication is the sharing of information, ideas, experience and viewpoints. A structured approach to communication and consultation will provide the following benefits:

- Organisational unity and a risk aware and tolerant culture;
- Risk management process is credible and understood;
- The interests of stakeholders are understood and considered;
- Integration of multiple viewpoints;
- Securing endorsement and support for risk action planning;
- Risk management is embedded in the way we do things.

9. RISK MANAGEMENT FRAMEWORK

Blayney Shire Council's risk management process is aligned to its strategic goals and objectives and is integrated within the overall planning and management functions of Council.

Council's risk management process is about understanding Council's environment by considering the following:

- Vision and values as set out in its Community Strategic Plan;
- Strategic direction, goals and objectives;
- Internal and external environment;
- Internal and external stakeholders;
- Community expectations;
- Organisational planning, reporting and management;

- Roles, responsibilities and communication strategies;
- Organisational governance and the integration of risk management;
- Operational planning, skills and resources.

10. RISK MANAGEMENT METHODS

There are a number of different methods Council utilises to manage risk. Blayney Shire Council employs a three level risk assessment structure:

- Level 1 – site or task specific risk assessments
- Level 2 – procedures and safe work method statements
- Level 3 – high level risk assessments and action plans

All three methods involve the systematic process of risk identification, risk analysis and evaluation and risk treatment and control. The selection of risk assessment method is in relation to the level of risk or its complexity and exposure. Alternatively management may apply a specific method based on other factors introduced to the activity or task.

When the level of risk is identified as extreme or high they are to be recorded in the Council Risk Register.

The **Risk Register** is a log of the identified risk and hazards, and contains details of:

- Risk or Hazard identification and type;
- A risk statement describing the risk or hazard;
- Details of the business or work unit and ownership of the risk;
- Assessed likelihood and consequence descriptors;
- Risk rating;
- Appropriate Control Measures;
- Adequacy of those Control Measures;
- Responsibilities for actions;
- Monitoring and review process.

The risk register shall be reviewed and reported to MANEX every two months. Reports to Council and Audit Committee are to be prepared three times a year or where there has been a significant incident or occurrence, and where changes to legislation or business practice occur.

10.1 Risk Identification

Council's Risk Management methodology is based on AS/NZS ISO 31000:2009 Risk Management Principles and Guidelines and involves an assessment of the Risk consequence and likelihood.

Risk identification considers what can happen, when and where, and why and how it can happen. Comprehensive risk identification using a well-structured process is critical, in order to achieve the strategic and operational outcomes agreed to by Council.

Risks can be identified using many techniques, including

- Checklists
- Questionnaires
- Staff experience
- Council records
- Group methods such as brainstorming or workshops
- Internal or external audits.

Strategic and operational risks that affect objectives can be identified in areas such as

- Service delivery
- Reputation
- People and culture
- Finance
- Fraud and corruption
- Health and safety
- Stakeholder
- Business continuity
- Security
- Compliance with legislative requirements

10.2 Risk Assessment

This is the process of considering the consequences and likelihood of a risk to determine the level of risk using the Risk Descriptors and Risk Matrix.

10.2.1 Consequence Rating

When analysing the consequences of a risk or event, consider the level of impact in relation to each of the consequence categories described in the Consequence Rating Table (Figure 2). Consequence is the outcome, injury, loss, gain, damage or any other unwanted outcome if the risk eventuates. Consequence ranges from minor to catastrophic.

10.2.2 Likelihood Rating

This describes how likely that a risk or event will eventuate. Likelihood can also be described as probability or frequency determined by referring to statistics, documents, skills and knowledge, past risk assessments and experiences (see Figure 3). Likelihood ranges from very unlikely to almost certain.

10.3 Risk Evaluation

The level of risk, or risk rating, is evaluated by cross referencing the consequence and likelihood rating tables using the risk rating matrix (see Figure 4). Within each category of risk there may be multiple scenarios ranging from Minor and very unlikely with a low risk rating to Catastrophic and almost certain which has an extreme risk rating. It is important to rate what is the most probable or realistic level of risk considering both consequences and likelihood.

Consequence				
Category	Catastrophic	Major	Moderate	Minor
People	Fatality/multiple fatalities/life threatening injury or illness /extensive long term injury	Severe injuries/ permanent disability/lost time injury	Medical treatment or hospitalisation/ restricted duties time	First aid/minor injury/no lost time
Property & Finance	Extensive loss and long term consequences (\$1M+ />10% of Budget)	Major financial loss, replacement of property or infrastructure (\$300,000-\$1M />5% of Budget)	Significant financial loss and impact on operations (\$10,000+ /<5% of Budget)	Negligible financial loss or property damage (<\$10,000 /<1% of Budget)
Information	Complete loss of all records and data; disaster management required	Loss of critical functions across multiple areas; extensive management and resources required	Significant interruption in multiple areas	Minor downtime in single area
Reputation	Extensive public outcry, potential broad media attention	Significant public criticism with media attention	Local community concern or criticism	Isolated, internal or minimal adverse attention or complaint
Environment	Extensive impact; Fatalities occur; requires long term remediation	Serious medium term impact; external services required to manage	Significant impact; contained with assistance	Minimal impact; dealt with by normal operations
Legal & Governance	Extensive breach, fines litigation and possible class action; threat to viability of organisation	Serious breach involving statutory authority with formal inquiry, fines and litigation; long term significance	Contained non-compliance or breach with short term significance	Isolated non-compliance or breach Managed by normal operations

Figure 2: Consequence Rating Table

Descriptor	Description	Indicative Frequency
Almost Certain	The event is expected to occur in most circumstances	>80% of the time
Likely	The event will probably occur in most circumstances	50-80% of the time
Unlikely	The event is not expected to occur	20-50% of the time
Very Unlikely	The event could happen but only in exceptional circumstances	<20% of the time

Figure 3: Likelihood Rating Table

		Likelihood			
		Almost Certain	Likely	Unlikely	Very Unlikely
Consequence	Catastrophic	Extreme	Extreme	High	High
	Major	Extreme	High	High	Medium
	Moderate	High	High	Medium	Low
	Minor	High	Medium	Low	Low

Figure 4: Risk Rating Matrix

Extreme	High	Medium	Low
Rating level is NOT acceptable. Managed by responsible Director, entered on Risk Register. Requires immediate attention, including internal and external resources, documented controls and action plans. Monitored by GM and MANEX and possibly designated elected members.	Managed by responsible Director, entered on Risk Register. May require allocation of additional resources, procedures, processes or training. Monitored by Director, responsible Manager and WHS and Risk Coordinator.	Managed by designated Manager, may be entered on Risk Register and require specific procedures or processes. Monitored at Manager level. Notified to WHS and Risk Coordinator.	Managed in day to day operations, by individual staff or small team. Monitored by area supervisors. Generally handled by SWMS, Site Specific Risk Assessments, procedures or checklists.

Figure 5: Risk Rating – Councils defined Risk Appetite

10.4 Risk Treatment

Risks that are identified, assessed and evaluated can be modified by the process of risk treatment.

Approaches to risk treatment include;

- Ceasing the activity that creates the risk
- Mitigating the risk, in the case of a threat, to reduce the likelihood and/or consequence or in the case of opportunity, to enhance the likelihood and/or consequence (i.e. controlling the risk)
- Monitoring the risk and/or the effectiveness of controls
- Accepting the risk
- Sharing or transferring the risk

In some cases, existing controls will be determined to be effective, and the risk will be accepted. In other cases, the risk will need to be more effectively managed before it can be accepted. Risk treatment is therefore strengthening existing controls or developing and implementing new controls, so that the risk can be accepted.

Following the risk rating process, the level of risk needs to be re-evaluated to determine if the controls reduces the risk to an acceptable level. If it is determined that the risk is not reduced to an acceptable level, additional controls will be required.

10.4.1 Risk Control

The primary aim of risk control is to eliminate the risk by removing the hazard. When this is not possible the risk must be minimised using one or more of the options from the hierarchy of controls. The risk control measure selected must be the highest possible option in the hierarchy to minimise the risk to the lowest level that is reasonably practicable.

Level 1

Eliminate the hazard.

Level 2

If it is not reasonably practicable to eliminate the hazards and associated risks, you should minimise the risks using one or more of the following approaches:

- Substitute the hazard with something safer
- Isolate the hazard
- Implement Engineering controls

Level 3

Level 3 are the lowest level of controls. These control measures do not control the hazard at the source. They rely on human behaviour and supervision, and used on their own, tend to be least effective in minimising risks

Administrative controls and PPE should only be used:

- when there are no other practical control measures available
- as an interim measure until a more effective way of controlling the risk can be used
- to supplement higher level control measures.

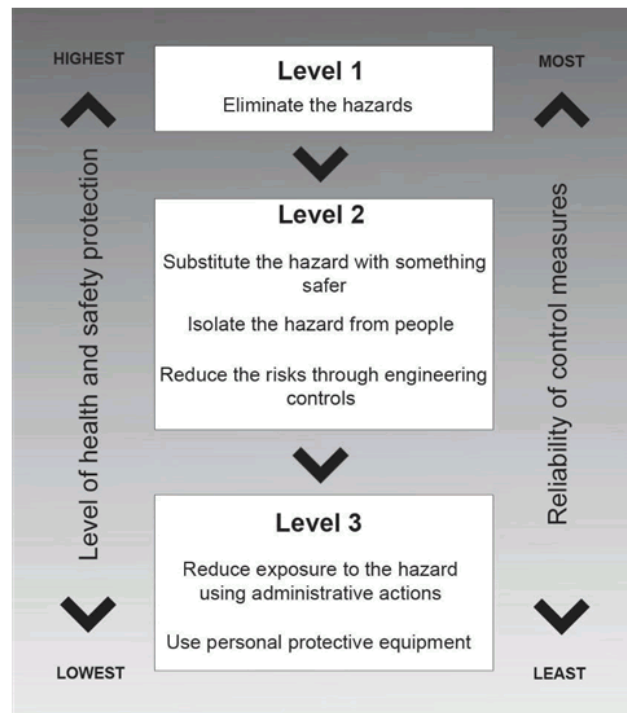


Figure 6: Hierarchy of Control

10.4.2 Review Control Measures

The introduction or review of control measures will require a review of any changes to the way work is carried out. In these situations, it is usually necessary to support the control measures with:

Work procedures

Develop a procedure or safe work method statement that describes the task, identifies the hazards and documents how the task is to be performed to minimise the risks.

Training, instruction and information

Training will ensure workers are able to perform the task safely and demonstrate they are competent in performing the task according to the procedure. Training, instruction and information must be provided in a form that can be understood by all workers. Information and instruction may also need to be provided to others who enter the workplace, such as customers or visitors.

Supervision

Council shall ensure that employees are provided with reasonable supervision necessary to ensure the health and safety of the workers and any other persons at Councils place of

work and that the supervision is undertaken by a competent person. In determining the nature and extent of necessary supervision, Council must have regard to the competence, experience and age of each worker.

Time frames

Controls and proposed actions are assigned to a responsible person with a specified date for completion or review.

10.4.3 Risk Appetite

Councils' Risk Appetite is

- The level of risk that the Council is prepared to take to achieve its strategic objectives;
- The risks that it is prepared to endure in response to a decision not to implement treatments;
- The acceptance of the residual risk following the implementation of risk treatments.

Under most risk scenarios, Council generally has a conservative risk appetite but accepts there are risks associated with many of Council's activities. Where there is scope for discretion, Council is usually willing to accept a higher level of risk to achieve its strategic objectives, however all risk scenarios will be considered on a case by case basis. An Extreme Risk Rating is **NOT** acceptable and such a level shall not be tolerated by Council.

10.5 Risk Action Planning

The purpose of risk action planning is to document how current controls and additional controls will be implemented, and recorded within Councils' Risk Register.

Risk action plans shall include the following:

- Recommended and agreed actions – what is the control or additional controls required;
- Resources needed – what is required to implement the control;
- Responsibility – who will be responsible to implement the controls;
- Timing – what is the timeframes for implementing the controls;
- Reporting and monitoring – who needs to be informed when implementing the controls.

11. DOCUMENTATION

In order to maintain the highest level of integrity in its decision-making process, it is essential that Council documents its risk management process, including its policies and procedures.

Documenting each step of the risk management process is important for a number of reasons:

- Demonstrate to stakeholders that the process has been conducted properly.
- Provide evidence of a systematic approach to risk identification and

analysis.

- Provide a record of risk identification and analysis.
- Enable the review of decisions or processes.
- Develop Council's knowledge database.
- Provide an accountability mechanism.
- Facilitate continued monitoring and review.
- Provide an audit trail.
- Share and communicate information.

Appropriate documentation need not impose another layer of paperwork. Subject to legislative requirements, decisions and processes involving risk management should be documented to the extent appropriate to the circumstances.

Risks identified as extreme or high are to be recorded in the Council Risk Register.

Medium risks are managed by Site Specific Risk Assessments, work methods and procedures

Processes of low risk rating may be documented through a diary note or file notes.

All Risk Management documentation should be registered.

Relevant Documents include:

AS/NZS ISO 31000:2009 Risk management - Principles and guidelines
SA/SNZ HB 436:2013 Risk management guidelines – Companion to AS/NZS ISO 31000:2009
SA SNZ HB 89 - 2013 Risk management - Guidelines on risk assessment techniques
Work Health and Safety Act 2011
Work Health and Safety Regulation 2011
Local Government Act 1993
Blayney Shire Council WHS Policy

End

Adopted:	09/09/2013	1309/012
Last Reviewed:	09/09/2013	1309/012
	21/03/2016	1603/007
	Xx/xx/2019	
Next Reviewed:	14/04/2021	



Legislative Compliance Policy

Policy	2K
Officer Responsible	Director Corporate Services
Last Review Date	xx/xx/xx

Strategic Policy

1. PURPOSE

The purpose of this policy is to provide a framework for legislative compliance across all aspects of the Council's operations in order to achieve the highest standards of good governance.

Council is committed to conducting its functions and activities lawfully and in a manner that is consistent with its compliance obligations.

The Legislative Compliance Policy (Policy) establishes the overarching principles and commitment to action for Council with respect to achieving compliance by:

- identifying a clear legislative compliance framework within which Council operates;
- promoting a consistent, rigorous and comprehensive approach to compliance throughout Council;
- developing and maintaining practices that facilitate and monitor compliance within Council;
- seeking to ensure standards of good corporate governance; and
- engendering a culture of compliance where every person within Council accepts personal responsibility for compliance.

2. SCOPE

This policy applies to Councillors, staff, volunteers and contractors of the Blayney Shire Council.

The Policy is aligned with Council's objectives as articulated in the Council Integrated Plans. Council recognises that there are four elements for an effective compliance program:

- Commitment – to and the establishment of a compliance program;
- Implementation – of a compliance program, including ongoing education and maintenance;
- Monitoring and Measuring – reporting and supervision of the compliance program; and
- Continual Improvement – regular review and continual improvement of the compliance program.

3. DEFINITIONS

Legislation - Laws that are made by Parliament, or under the authority of Parliament are called legislation, or statutes. "Acts" are primary legislation. Acts may authorise the making of Regulations, Orders and Notices and there are referred to as subordinate legislation.

Legislation compels or directs the action of individuals, industry and other groups in specified circumstances and also outlines actions that are not to be taken, in order to achieve certain policy objectives.

Delegations Register – Councils have certain duties which they must perform, and certain powers which they must exercise, pursuant to the Local Government Act 1993, as well as a number of other Acts. Under the Local Government Act 1993, Council is able to delegate those duties to staff and Committees of Council.

The Delegation Register is a listing of those functions which Council has delegated to appropriate staff and Committees of Council.

4. POLICY STATEMENT

Council shall have appropriate processes and structures to ensure that legislative requirements are achievable and are integrated into the day to day operations of Council.

The processes and structures will aim to:

- Develop and maintain a system for identifying the legislation that applies to Council's activities and functions.
- Assign responsibilities for ensuring legislative and regulatory obligations are fully implemented by Council.
- Provide education and awareness for Councillors and Council officers in the legislative requirements that affect them.
- Provide people with the resources to identify and remain up-to-date with legislative changes.
- Establish a mechanism for reviewing situations where non-compliance has occurred.
- Review and assess the system for compliance.

5. POLICY IMPLEMENTATION

5.1 Obligations

Councillors, staff, volunteers and Council contractors are responsible for ensuring the Council complies with all relevant legislation. These responsibilities however differ across the organisation, based on the role / position requirements of the individual and their direct involvement in statutory functions.

5.1.1 General Responsibilities

While the Council does not expect Councillors, staff, volunteers or Council contractors to be fully conversant with every State and Federal law, all are expected to be aware of the common areas of legislation that affect their role.

In addition, staff members are expected to be aware of a range of employment related laws (for example legislation relating to work, health and safety, equal opportunity, bullying and harassment), and are expected to be aware that certain actions may be subject to the criminal code (such as theft, assault, etc.).

Staff members should also be aware of any Council policies, codes, Australian Standards or statements that are relevant to their areas of responsibility.

5.1.2 Delegated Responsibilities

Staff members with delegated authority for carrying out statutory requirements, in accordance with the Delegations Register, are expected to develop a clear understanding of the relevant provisions as they relate to their responsibilities, and make themselves aware of changes to legislation and its impact on Council activities.

5.1.3 Management Responsibilities

Any staff member responsible for the management or supervision of staff must ensure appropriate information is disseminated to all workers under their responsibility. They are responsible for ensuring that risk due to non-compliance is minimised and workers under their responsibility are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work.

They are also required to ensure that information relating to legislative changes is disseminated to appropriate staff members, and that recordkeeping systems and practices that capture evidence of compliance are in place.

5.2 Consequences of Non-Compliance

Councillors, staff, volunteers and Council contractors should be aware that any failure to comply with the law could be a criminal act, or result in a breach of the law or a breach of discipline.

Failure to comply with legal requirements could result in:

1. Disciplinary proceedings;
2. A hearing by the Pecuniary Interest Tribunal into complaints concerning alleged failures by Councillors, staff, delegates and advisors to disclose pecuniary interests;
3. Dismissal of the Mayor and Councillors and the appointment of an Administrator;
4. Removal of a Council's planning powers and the appointment of an Administrator;
5. The appointment of an Environmental Administrator (under relevant environmental legislation);
6. Legal proceedings against the Council for orders to remedy or restrain breaches of certain Acts, or for other legal challenges relating to such things as acting beyond the scope of authority of power, or failing to provide natural justice, possibly resulting in costly litigation and awards of damages;
7. Complaints about the conduct of the Council or staff members being referred to the Ombudsman, ICAC, Audit Office, Office of Local Government, or other relevant bodies;
8. Criminal proceedings;
9. Disruption to management, staff morale problems and bad publicity resulting from any of the above.

5.3 Application of Legal Requirements

The obligation to comply with legal requirements does not relieve the Council or individual staff members of the moral or ethical obligation to mitigate the effects of

rigid adherence to the letter of the law where that results in, or would result in, unintended or manifestly inequitable or unreasonable treatment of an individual or organisation. For example:

1. If the law gives the Council discretion, it should be exercised in a fair and reasonable way;
2. If the law does not give the Council discretion, fairness may involve adopting a broad interpretation in certain circumstances rather than a rigid adherence to legality;
3. Other options may be available to the Council to mitigate any unreasonable or inequitable effects of compliance with the law. These could include, for example, waiving debts, refunding fees or charges, offering an expression of regret or an apology, deferring regulatory action to allow for an authorisation to be obtained, fast tracking an assessment and determination of an application, etc.

In a similar manner, policies, codes, standards, etc. should not be applied inflexibly but on the basis of merit, with proper consideration being given to the particular circumstances of each individual case.

Staff members should have regard to circulars, practice notes, codes, guidelines, etc. issued by government or relevant central agencies. They should comply with their terms unless there are justifiable grounds for taking another course of action within the scope of the discretion available to the decision-maker.

5.4 Strategies for Ensuring Compliance

The General Manager will ensure a range of methods are adopted for use by Council staff to ensure compliance with key legislative changes.

6. RELATED LEGISLATION, POLICIES AND STRATEGIES

6.1 Policies and Strategies

- Blayney Shire Council Community Strategic Plan
- Blayney Shire Council Local Environmental Plan
- Delegation Register
- All Council policies and plans developed in accordance with legislation

End of Policy

Adopted:		
Lasted Reviewed:		
Next Reviewed:		