

5 July 2018

**MAYOR
COUNCILLORS
CITY OF MOUNT GAMBIER**

NOTICE is given that the Strategic Standing Committee will meet in the following Meeting Room on the day, date and time as follows:

Strategic Standing Committee
(Committee Room - Level 4):

Monday, 9 July 2018 at 5:30 p.m.

An agenda for the meeting is enclosed.



Mark McSHANE
CHIEF EXECUTIVE OFFICER

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5. STRATEGIC STANDING COMMITTEE REPORTS

Strategic Standing Committee Reports commence on the following page.



5.1. Policy Review - Council and Member Policies – Report No. AR18/25478

COMMITTEE	Strategic Standing Committee
MEETING DATE:	9 July 2018
REPORT NO.	AR18/25478
RM8 REFERENCE	AF18/56
AUTHOR	Michael McCarthy
SUMMARY	This report presents several Council and Member Policies for review prior to the 2018 Local Government Election
COMMUNITY PLAN REFERENCE	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/25478 titled '*Policy Review – Council and Member Policies*' as presented to the Strategic Standing Committee on 9 July 2018 be noted.
- (b) That the updated policies as attached to Strategic Standing Committee Report No. AR18/25478 be adopted as follows:
- E115 Elections – Council Entitlement to Vote
 - M205 Mayor – Anniversary Messages
 - V140 Visits by Parliamentary/Governmental Representatives
 - M270 Mayor Seeking Legal Advice
 - M225 Members – Service Recognition

Moved:

Seconded:



Background

Council policies each have a specified review period, with the upcoming Local Government Elections the following policies are due for periodic review and consideration:

- E115 Elections – Council Entitlement to Vote
- M205 Mayor – Anniversary Messages
- M270 Mayor Seeking Legal Advice
- M225 Members – Service Recognition
- V140 Visits by Parliamentary/Governmental Representatives

Accordingly, each of these policies have been reviewed and are presented for consideration.

Discussion

Whilst no material changes are proposed, a brief summary is provided for each of the Council policies attached for consideration and recommended for re-adoption.

E115 Elections – Council Entitlement to Vote

This policy relates to Council's ownership of land located within the area of the District Council of Grant which can give rise to a voting entitlement in District Council Mayoral and Ward/Councillor elections. No changes are proposed except to incorporate the policy into the Council policy (branding) template.

M205 Mayor – Anniversary Messages

This policy provides guidance on the giving of celebratory letters and flowers from the Mayor for significant anniversaries and birthdays. No material changes to this policy are proposed except to incorporate the policy into the Council policy (branding) template.

M270 Mayor Seeking Legal Advice

This policy sets out the limited circumstances in which the Mayor may seek legal advice where it is not possible or appropriate for the Chief Executive Officer to do so, being for urgent matters relating to a Council meeting if the Chief Executive Officer is unavailable and legal advice relating to the Chief Executive Officer or the exercise of the Chief Executive Officers powers.

Section 78A of the Local Government Act provides that the regulations may establish a scheme for the direct obtaining of legal advice by a Council Member, however no such regulations or scheme have been established.

No material changes are proposed to this policy except to incorporate the policy into the Council policy (branding) template.

M225 Members – Service Recognition

This policy provides for the recognition of Elected Member service in conjunction with the Local Government Association of SA. No material changes to this policy are proposed.

V140 Visits by Parliamentary/Governmental Representatives

This Policy provides guidance on the arrangement of meetings with Members of State/Federal Parliament (including invitation to Councillors) and deputations on matters of importance to Council or the wider community. No changes to this policy are proposed except to incorporate the policy into the Council policy (branding) template.



Conclusion

The 5 reviewed policies are attached and recommended for consideration and re-adoption with no material policy changes.

Attachments

[Attachment 1 \(AR18/25587\): Policy E115 Elections – Council Entitlement to Vote](#)

[Attachment 2 \(AR16/22586\): Policy M205 Mayor – Anniversary Messages](#)

[Attachment 3 \(AR18/25584\): Policy M270 Mayor Seeking Legal Advice](#)

[Attachment 4 \(AR18/25585\): Policy M225 Members – Service Recognition](#)

[Attachment 5 \(AR18/25583\): Policy V140 Visits by Parliamentary/Governmental Representatives](#)



Michael McCARTHY
MANAGER EXECUTIVE ADMINISTRATION



Mark McSHANE
CHIEF EXECUTIVE OFFICER

29 June 2018
MMcC



5.2. Policy Review - E500 Provision of Council Resources to Support the Emergency Services in Emergencies – Report No. AR18/26223

COMMITTEE	Strategic Standing Committee
MEETING DATE:	9 July 2018
REPORT NO.	AR18/26223
RM8 REFERENCE	AF17/506
AUTHOR	Nick Serle
SUMMARY	This report presents Council Policy E500 Provision of Council Resources to Support the Emergency Services in Emergencies.
COMMUNITY PLAN REFERENCE	Goal 1: Our People

REPORT RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/26223 titled ‘*Policy review - E500 Provision of Council Resources to Support the Emergency Services in Emergencies*’ as presented to the Strategic Standing Committee on 9 July 2018 be noted.
- (b) That the updated Policy - E500 Provision Of Council Resources To Support The Emergency Services In Emergencies as attached to Strategic Standing Committee Report No. AR18/26223 be adopted.

Moved:

Seconded:



Background

Council policies each have a specified review period. Accordingly policy "E500 - Provision of Council Resources to Support the Emergency Services In Emergencies" has been reviewed and is presented for consideration.

Discussion

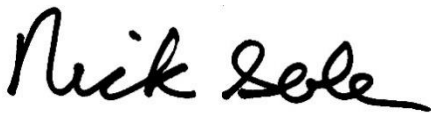
No material changes are proposed to the policy "E500 - Provision of Council Resources to Support the Emergency Services in Emergencies" except to change reference to the Director Operational Services to General Manager City Infrastructure.

Conclusion

The reviewed policy "E500 - Provision of Council Resources to Support the Emergency Services in Emergencies" is attached and recommended for consideration and re-adoption with no material policy changes.

Attachments

[Attachment 1 \(AR18/26222\): E500 Provision of Council Resources to Support The Emergency Services In Emergencies](#)



Nick SERLE
GENERAL MANAGER CITY INFRASTRUCTURE



Mark McSHANE
CHIEF EXECUTIVE OFFICER

1 July 2018
NS



5.3. Policy Review - F225 - Fraud and Corruption Prevention – Report No. AR18/25485

COMMITTEE	Strategic Standing Committee
MEETING DATE:	9 July 2018
REPORT NO.	AR18/25485
RM8 REFERENCE	AF18/56
AUTHOR	Michael McCarthy
SUMMARY	This report presents Council Policy F225 - Fraud and Corruption Prevention for review.
COMMUNITY PLAN REFERENCE	Goal 3: Our Diverse Economy

REPORT RECOMMENDATION
<p>(a) That Strategic Standing Committee Report No. AR18/25485 titled '<i>Policy Review – F225 Fraud & Corruption Prevention</i>' as presented to the Strategic Standing Committee on 9 July 2018 be noted.</p> <p>(b) That the updated Fraud & Corruption Prevention Policy F225 as attached to Strategic Standing Committee Report No. AR18/25485 be adopted.</p>

Moved:

Seconded:



Background

Council policies each have a specified review period. Accordingly, the Fraud and Corruption Prevention Policy F225 has been reviewed and is presented for consideration.

Discussion

No material changes are proposed to the Fraud & Corruption Prevention Policy F225 except to alter reference to the recently replaced Code of Conduct for Employees and other minor references to reflect legislative changes since the last review, with no material changes made to policy provisions.

Conclusion

The reviewed Fraud & Corruption Prevention Policy is attached and recommended for consideration and re-adoption with no material policy changes.

Attachments

[Attachment 1 \(AR18/25560\): Policy F225 - Fraud & Corruption Prevention](#)



Michael McCARTHY
MANAGER EXECUTIVE ADMINISTRATION



Pamela LEE
GENERAL MANAGER COUNCIL BUSINESS SERVICES

29 June 2018
MMcC



5.4. Governance - Review of Confidentiality Orders – Report No. AR18/19719

COMMITTEE	Strategic Standing Committee
MEETING DATE:	9 July 2018
REPORT NO.	AR18/19719
RM8 REFERENCE	AF17/506
AUTHOR	Michael McCarthy
SUMMARY	A report to review Confidentiality Orders with a duration exceeding 12 months in accordance with Section 91(9) of the Local Government Act 1999.
COMMUNITY PLAN REFERENCE	Goal 3: Our Diverse Economy

REPORT RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/19719 titled 'Governance Review of Confidentiality Orders' as presented to the Strategic Standing Committee on 9 July 2018 be noted.
- (b) That the following Confidential Orders as specified in Attachment 1 to Report AR18/19719, having been reviewed by Council, remain in operation on the grounds provided:
- ii. Council 18/10/2016 – Operational Services Committee 11/10/2016 – Item 10 FINANCIAL MANAGEMENT - Caroline Landfill - Economic Analysis - Ref. AF16/159.
 - iii. Council 18/10/2016 – Operational Services Committee – 11/10/2016 - Item 13 OPERATIONAL SERVICES REPORT NO. 7/2016 - Tender AF16/277 - Caroline Landfill Development (Stage 3) Construction of Cell 3 (B & C) and Leachate Pond 4.
 - iv. Council (Special) 31/01/2017 – Item 1 Allegations regarding Mayor Andrew Lee to be referred to ICAC – Ref. AF13/275.
 - v. Council 19/9/2017 – Operational Standing Committee – 12/09/2017 - Item 7.8 Sale of Land for non-payment of Rates - Report No. AR17/31763.
 - vi. Council 19/9/2017 – Operational Standing Committee – 12/09/2017 – Item 7.5 Sale of Land for non-payment of Rates - Report No. AR17/31762.
 - viii. Council 21/11/2017 – Operational Standing Committee – DATE - Item 17.2 Legal Action - 1/29 Willow Avenue, Mount Gambier - EMT Holdings Pty Ltd - Report No. AR17/44088



- (c) That the following Confidential Orders as specified in Attachment 1 to Report AR18/19719, having been reviewed by Council, be amended to alter the duration and release conditions:
- ix. Council 21/11/2017 – Item 17.5 report No. AR17/47214 – Surplus Government Property Notice
- Alternate Duration/Conditions for Release:
Until:
A public announcement has been made by the State Government on the intended manner in which the property matter is to be dealt.
- (d) That the following Confidential Orders as specified in Attachment 1 to Report AR18/19719, having been reviewed by Council, be released immediately following the Council meeting on 17 July 2018:
- i. Council 20/09/2016 – Corporate and Community Services Committee 12/03/2016 – Item 12 DEVELOPMENT CONTROL - Development Applications - Environment Resources Development (ERD) Court Actions – Ref. AF12/246.
- vii. Council 19/9/2017 – Operational Standing Committee – 12/09/2017 - Item 7.2 Sale of Land for non-payment of Rates - Report No. AR17/31728.

Moved:

Seconded:



Background

Section 90(9) of the Local Government Act requires that any order to retain a matter 'in-confidence' that operates for a period exceeding 12 months must be reviewed at least once in every year.

Further, Section 91(9)(ab) provides that:

- (i) The duration of an order cannot be extended after the order has ceased to apply; and
- (ii) An order extending the duration of such an order cannot be delegated by the relevant Council or Council Committee.

Discussion

The matters contained within the table in Attachment 1 to this Report are subject to Confidential Orders previously made by Council that remain operational and are presented for review in accordance with Section 90(9).

Upon review, Council may consider that the Confidential Orders for each of these matters should remain in operation and continue to be reviewed in accordance with the Local Government Act. No further action is required for these existing Confidential Orders to continue in operation.

Alternatively, Council may determine that one or more of the Confidential Orders should be amended or cease to operate; and so Order that the Confidential Item be partially or fully released, or that conditions for release be amended.

Conclusion

This report recommends that the duration and conditions for release for one of these Confidential Orders, having been reviewed by Council be amended with the remainder to continue in operation until the specified release criteria, if any, have been met, and to be reviewed at least once in every year in accordance with Section 90(9) of the Local Government Act 1999.

Attachments

[Attachment 1 \(AR18/19755\): Review of Confidentiality Orders Table](#)



Michael McCARTHY
MANAGER GOVERNANCE & PROPERTY



Pamela LEE
GENERAL MANAGER COUNCIL BUSINESS SERVICES

29 May 2018
MMcC



6. MOTION(S)

6.1. With Notice

Nil Submitted

6.2. Without Notice

Meeting closed at p.m.

AR18/26237



 City of Mount Gambier	COUNCIL POLICY E115 ELECTIONS – COUNCIL ENTITLEMENT TO VOTE	Version No:	5
		Issued:	July, 2018
		Next Review:	July, 2022

1. POLICY STATEMENT

The City of Mount Gambier not elect to vote at any of the elections of the District Council of Grant, even though (as a ratepayer and property owner/property occupier within that Council's area) Council is entitled to vote for its several properties.

 City of Mount Gambier	COUNCIL POLICY E115 ELECTIONS – COUNCIL ENTITLEMENT TO VOTE	Version No:	5
		Issued:	July, 2018
		Next Review:	July, 2022

File Reference:	AF18/51
Applicable Legislation:	Local Government (Elections) Act 1999
Community Plan Reference:	
Related Policies:	
Related Procedures:	
Related Documents:	

DOCUMENT DETAILS

Responsibility:	Manager Executive Administration
Version:	5.0
Last revised date:	# July 2018
Effective date:	# July 2018
Minute reference:	#
Next review date:	July, 2022
<u>Document History</u>	
First Adopted By Council:	18 th April, 2001
Reviewed/Amended:	15 th April 2003, 19 th September 2006, 16 th December 2008

 <p>City of Mount Gambier</p>	<p>COUNCIL POLICY M205 MEMBERS – MAYOR – ANNIVERSARY MESSAGES</p>	Version No:	3
		Issued:	July, 2018
		Next Review:	July, 2022

1. POLICY STATEMENT

Council recognises that on occasion a request will be made to the Mayor to provide a letter of recognition in regard to a special birthday or wedding anniversary.

Council has taken into consideration information contained on the Department of Prime Minister and Cabinet anniversary messages webpage:-

<https://www.pmc.gov.au/government/anniversary-messages>

The following will apply:-

1. A letter of congratulations be sent to organisations that are celebrating their 25th Anniversary and every twenty five years thereafter all upon request.
2. A letter of congratulations be sent to a couple celebrating their 50th Wedding Anniversary upon request.
3. A letter of congratulations and a bouquet of flowers be sent to a couple celebrating their 60th Wedding Anniversary upon request.
4. A letter of congratulations be sent to a person celebrating their 90th Birthday upon request.
5. A letter of congratulations and a bouquet of flowers will be sent to a person celebrating their 100th Birthday upon request.

 City of Mount Gambier	COUNCIL POLICY M205 MEMBERS – MAYOR – ANNIVERSARY MESSAGES	Version No:	3
		Issued:	July, 2018
		Next Review:	July, 2022

File Reference:	AF18/51
Applicable Legislation:	
Community Plan Reference:	
Related Policies:	
Related Procedures:	
Related Documents:	https://www.pmc.gov.au/government/anniversary-messages

DOCUMENT DETAILS

Responsibility:	Manager Executive Administration
Version:	3.0
Last revised date:	# July 2018
Effective date:	# July 2018
Minute reference:	#
Next review date:	July, 2022
<u>Document History</u>	
First Adopted By Council:	17 th October 2006
Reviewed/Amended:	21 st April 2009

 City of Mount Gambier	COUNCIL POLICY M270 MEMBERS – MAYOR SEEKING LEGAL ADVICE	Version No:	2
		Issued:	July, 2018
		Next Review:	July, 2022

1. INTRODUCTION

As a general rule, any legal advice obtained on behalf of a Council will occur through the CEO or be authorised by the CEO or a Council resolution. A CEO of a Council is responsible for the implementation of lawful Council decisions and for the overall administration and budget management of the Council. However, there may be limited circumstances where it is not appropriate or not possible for a Council to obtain legal advice through the CEO and in May 2011 the LGA issued Guidelines for Mayors/Chairpersons – Obtaining Legal Advice [available on the LGA website: www.lga.sa.gov.au].

2. Purpose of the Policy

This policy is designed to set out Council's position in relation to the circumstances in which the Mayor is authorised to seek legal advice independently of the CEO.

3. Circumstances in which it is Appropriate for the Mayor to Seek Legal Advice

In circumstances in which it is not possible or appropriate for the CEO to seek legal advice, the Mayor may seek a Council resolution to obtain legal advice or the Mayor may seek the advice independently as set out below.

3.1 Urgent matters relating to a Council Meeting if the CEO is unavailable

While the CEO has a good working knowledge of Council meeting procedures, matters may arise from time to time which require an urgent legal opinion. Where legal advice is required in the absence of the CEO:

- The Mayor may seek legal advice in situations in which a response is required urgently, including for an imminent Council meeting or other urgent matter;
- Any legal advice obtained in this way will be reported to the Council at the earliest available meeting (which may be conducted 'in confidence' for this purpose under section 90(3)(h) of the Local Government Act 1999);
- The legal advice will also be provided to the CEO (unless this is not appropriate – see below).

3.2 The legal advice relates to the CEO or the exercise of the CEO's powers

In circumstances where Council is to consider a matter related to the CEO (e.g. urgent employment related issues or where the Council is investigating a failure by the CEO to comply with a resolution of Council or where a matter relates to the exercise of a CEO's powers) and it is the view of the Mayor that the consideration of this matter by the Council should occur with the benefit of legal advice:

- The advice will be obtained as a matter of administrative necessity by the Mayor to ensure the legality of the Council's actions and decisions;

 City of Mount Gambier	COUNCIL POLICY M270 MEMBERS – MAYOR SEEKING LEGAL ADVICE	Version No:	2
		Issued:	July, 2018
		Next Review:	July, 2022

- The Mayor will not confer with Council staff where the legal advice relates to the CEO's employment or other personal matter;
- The Mayor may confer with other relevant senior Council staff, such as the General Managers, if the matter concerns an issue that is not confidential to the CEO, such as a conflict of interest matter relating matters disclosed in the register of interests;
- The Mayor will keep the Council fully informed of any advice obtained on behalf of the Council and advise members of the advice received at the next available meeting;
- Where the Mayor has obtained the advice other than in accordance with a Council resolution Council should, as a matter of caution, retrospectively endorse the Mayor's decision to obtain the advice.


4. Record Keeping and Confidential Documents

Where the Mayor obtains legal advice relating to the CEO or the exercise of the CEO's powers, and it is not appropriate to provide that advice to the CEO, the advice must be placed in the records management system in such a way as to ensure that it cannot be accessed by the CEO. This procedure will also apply to other documents relevant to the matter which, in the opinion of the Council, should be kept confidential.

The documents will be made password accessible and be available only to a nominated senior officer. These restricted access records will be maintained in accordance with the State Records Act 1997 and will remain subject to assessment as part of any relevant application made under the Freedom of Information Act 1991.

5. Review of Policy

This Policy will be reviewed at least once during the term of each elected Council.

 City of Mount Gambier	COUNCIL POLICY M270 MEMBERS – MAYOR SEEKING LEGAL ADVICE	Version No:	2
		Issued:	July, 2018
		Next Review:	July, 2022

File Reference:	AF18/51
Applicable Legislation:	Local Government Act 1999
Community Plan Reference:	
Related Policies:	
Related Procedures:	
Related Documents:	

DOCUMENT DETAILS

Responsibility:	Manager Executive Administration
Version:	2.0
Last revised date:	# July 2018
Effective date:	# July 2018
Minute reference:	#
Next review date:	July 2022
<u>Document History</u> First Adopted By Council: Reviewed/Amended:	21 st June 2011

 City of Mount Gambier	COUNCIL POLICY M225 MEMBERS – SERVICE RECOGNITION	Version No:	2
		Issued:	July, 2018
		Next Review:	July, 2022

1. INTRODUCTION

This document sets out the policy of the City of Mount Gambier ("Council") for the recognition of service of Elected Members.

2. MEMBERS - Recognition of Service

The Mayor, in association with the Local Government Association of South Australia, present to each Elected Member who complete a term on Council;

- a "Certificate of Service" after ten (10) years of service with Council, irrespective of whether that service is continuous or with a break or breaks, provided the culmination equals at least ten (10) years;
- a "Service Badge" after fifteen (15) years of service with Council, irrespective of whether that service is continuous or with a break or breaks, provided the culmination equals at least fifteen (15) years;
- the "Certificate of Meritorious Service" after twenty (20) years of service with Council, irrespective of whether that service is continuous or with a break or breaks, provided the culmination equals at least twenty (20) years;
(Note: Certificate of Meritorious Service presented at the LGA - Annual General Meeting)

As the "Certificates of Service" or "Service Badge" can only be issued once to an Elected Member, then as a matter of policy, the issue and presentation of the "Certificates of Service" or "Service Badge" be made at the completion of an Elected Members' respective years of service.

Council also provide:

- a special memento in the form of a suitably inscribed gold watch after twenty five (25) years of service with Council irrespective of whether that service is continuous or with a break or breaks provided the culmination equals at least twenty five (25) years.

As the memento can only be issued once to an Elected Member, then as a matter of policy, the issue and presentation of the memento be made at the completion of an Elected Member's twenty five years of service.

3. REVIEW & EVALUATION


This Policy is scheduled for review by Council in July 2022; however, will be reviewed as required by any legislative changes which may occur.

 City of Mount Gambier	COUNCIL POLICY M225 MEMBERS – SERVICE RECOGNITION	Version No:	2
		Issued:	July, 2018
		Next Review:	July, 2022

File Reference:	AF18/51, AF11/1740
Applicable Legislation:	
Community Plan Reference:	
Related Policies:	M160 Members Certificate of Service (Superseded) M230 Members Recognition of Service (Superseded)
Related Procedures:	
Related Documents:	

DOCUMENT DETAILS

Responsibility:	Manager Executive Administration
Version:	2.0
Last revised date:	# July 2018
Effective date:	# July 2018
Minute reference:	#
Next review date:	July 2022
<u>Document History</u> First Adopted By Council: Reviewed/Amended:	18 th February 1999 (Suspended Policies M160, M230)

 City of Mount Gambier	COUNCIL POLICY V140 – COUNCIL AND COMMITTEES – VISITS BY PARLIAMENTARY / GOVERNMENTAL REPRESENTATIVES	Version No:	3
		Issued:	July, 2018
		Next Review:	July, 2022

1. POLICY STATEMENT


- (a) The Mayor be empowered to arrange meetings with Members of the State or Federal Parliament (and their attendees) for the purposes of:
- pursuing specific or general matters that will further the causes of Council or the wider community
 - advancing to the attending Members of Parliament matters of importance for Council or the wider community
 - extending the community's hospitality to the attending Members of Parliament where it is considered appropriate and desirable and the form/style of such hosting is to be commensurate with the significance of the occasion, the attendees and the subject matters
- (b) The meetings referred to in 1. above are likely to include invitations to all Members of Council to attend.
- (c) The Mayor be empowered to arrange deputations (representing the Council) with Members of the State or Federal Parliament, Ministers etc. and/or their advisers to enable Council to pursue issues of importance to Council or the wider community and that it is likely that other Members of Council would form part of any deputation.

 City of Mount Gambier	COUNCIL POLICY V140 – COUNCIL AND COMMITTEES – VISITS BY PARLIAMENTARY / GOVERNMENTAL REPRESENTATIVES	Version No:	3
		Issued:	July, 2018
		Next Review:	July, 2022

File Reference:	AF18/51
Applicable Legislation:	
Community Plan Reference:	
Related Policies:	
Related Procedures:	
Related Documents:	

DOCUMENT DETAILS

Responsibility:	Manager Executive Administration
Version:	3.0
Last revised date:	# July 2018
Effective date:	# July 2018
Minute reference:	#
Next review date:	July 2022
<u>Document History</u> First Adopted By Council: 18 th September 2007 Reviewed/Amended: 21 st April 2009	

 City of Mount Gambier	E500 - PROVISION OF COUNCIL RESOURCES TO SUPPORT THE EMERGENCY SERVICES IN EMERGENCIES	Version No:	2
		Issued:	July 2018
		Next Review:	July 2020

1. INTRODUCTION

The purpose of this policy is to define how the City of Mount Gambier will support emergency services organisations in responding to an emergency. In particular:

- arrangements that will allow the participation of Council's staff and associated use of Council equipment;
- the availability of Council employees who agree to participate;
- the availability of Council owned plant and equipment; and
- the scope of works that might be undertaken.

For the purpose of this Policy, Council staff means Council employees. This policy does not apply to any person (including Council contractors or Council volunteers) who separately undertakes duties as a registered SACFS fire-fighter/volunteer or with any other emergency services or community service/volunteer organisation.

2. BACKGROUND

a) National Strategy for Disaster Resilience

Given the increasing regularity and severity of natural disasters, Australian Governments have recognised that a national, coordinated and cooperative effort is required to enhance Australia's capacity to withstand and recover from emergencies and disasters.

In consideration of this National approach the City of Mount Gambier recognises the shared responsibility that it has to help protect and assist its community to respond to and recover from disasters.

b) Legislative Context


The Local Government Act (1999) identifies that a function of a Council is to provide for the welfare, well-being and interests of individuals and groups within its community (s7(c)).

Another function of a Council is to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazards (s7(d)).

Council's link to the State emergency management arrangements is through the State Emergency Management Plan (SEMP). The SEMP is prepared pursuant to s9 of the Emergency Management Act (2004), which lists Councils as Participating Organisations to six of the thirteen Functional Services that are established under the SEMP.

Functional Services are groupings of participating agencies coordinated by a lead agency that perform a functional role as part of the SEMP arrangements to support response and recovery operations for an emergency.

This policy has been prepared within the context of supporting emergency services organisations and the SEMP in the case of an emergency.

 City of Mount Gambier	E500 - PROVISION OF COUNCIL RESOURCES TO SUPPORT THE EMERGENCY SERVICES IN EMERGENCIES	Version No:	2
		Issued:	July 2018
		Next Review:	July 2020

3. PREPAREDNESS

a) Arrangements and communication

Council will endeavour to meet periodically (at least annually) with the relevant emergency service organisations to confirm critical coordination arrangements. These will include:

- contact protocols;
- details of Council resources that could be made available;
- the arrangements for accessing such resources; and
- the scope of work that could be performed.

b) Availability of Council staff

To support this policy the Council will establish and maintain an 'Employee Emergency Response Support Register' (refer to Appendix R1). The Council will ensure that staff who are listed on the Register are adequately trained with respect to:


- operating Council plant and equipment that might be required to support an emergency response; and
- work health and safety procedures that are pertinent to staying safe in an emergency.

Council will:

- identify relevant staff who are interested in participating in Council response(s) to emergency support requests under this policy and list such staff on the Employee Emergency Response Support Register;
- not obligate any Council staff to be listed on the Employee Emergency Response Support Register, nor obligate any Council employee listed on the register to respond to a particular (or any) incident;
- ensure all Council staff who will be required to operate Council vehicles or plant and equipment undertake annually the i-Responda training;
- maintain the integrity of the Employee Emergency Response Support Register; and
- reserve the right, in accordance with the i-Responda framework, to not release Council staff to support an emergency event should the circumstances of the event warrant withholding of support or alternate allocation of Council's resources exist (as deemed at the discretion of the CEO).

Availability of Council Plant and Equipment

Likewise the Council will establish and maintain an 'Emergency Services Plant and Equipment Register' (refer to Appendix R2) which will identify Council owned plant and equipment that can be made available to the emergency services for the purpose of being used in an emergency

 City of Mount Gambier	E500 - PROVISION OF COUNCIL RESOURCES TO SUPPORT THE EMERGENCY SERVICES IN EMERGENCIES	Version No:	2
		Issued:	July 2018
		Next Review:	July 2020

response operation. Attaching to the Register will be the terms and conditions of availability and use of the plant and equipment.

Council will:

- provide a list of vehicles, plant and equipment, maintained in operational condition, that may be available for the purpose of utilisation in an emergency;
- liaise with the Control Agency about how the delivery of, or access to, any vehicles, plant and equipment will be achieved;
- have available at all times a list of persons on the Employee Emergency Response Support Register that are competent to operate the various items of plant and equipment; and
- reserve the right not to release Council plant and equipment for emergency response operations should the circumstances of the event warrant withholding of support or alternate allocation of Council's resources exist (as deemed at the discretion of the CEO).

Scope of Works

Council will advise the emergency services of the types of work that it is prepared to allow its plant to be used for from time to time. In general terms the scope will reflect that contained in the publication Supervision of Machinery Used in Bushfire Operations Government of South Australia, Edition 2, March 2011.

4. RISK MANAGEMENT

a) Application of risk management


The Council and Council staff – noting that they are acting voluntarily – but within scope of Council duties/Council Policy, when supporting the emergency services in responses operations will:

- apply appropriate risk management principles; and
- have regard to the arrangements of the LGA Asset Mutual Fund, the LGA Workers Compensation Scheme and LGS Mutual Liability Scheme.

The Council and Council staff will act in a manner that ensures the various activities that might be undertaken in an emergency response situation are managed in such a way that the safety and health of its workers and community are paramount.

b) i-Responda Framework

The i-Responda framework has been developed in consultation with the LGA and Local Government Risk Services. It addresses issues such as incident management protocols, operational arrangements in emergency response situations and fulfils the legislative


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requirement of the Work, Health and Safety Act to ensure as far as is reasonably practicable, the health and safety of the Council worker.

Implementation of the framework will equip Council Chief Executives, managers and staff with information and tools that will enable a confident response to requests for Councils to provide support to emergencies.

Council will:

- implement the i-Responda framework, to ensure that all emergency response activities are undertaken within a consistent and robust risk assessment framework guiding practical decisions and actions pursuant to the Schemes" Rules; and
- establish, implement, monitor and review work health and safety policy and procedures consistent with the i-Responda framework.

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5. INSURANCE

a) Local Government Association Asset Mutual Fund (LGAAMF)

The LGAAMF will continue to provide coverage to Council owned property, plant and machinery (mobile or otherwise) while it is being used in preventing, preparing, or responding to an emergency on the following basis:

- the plant, vehicle, or machinery must be operated by Council staff and in accordance with the i-Responda framework; and
- Council is responsible to ensure all property, vehicles, plant and machinery (mobile or otherwise) provided to support an emergency are fit for purpose and consistent with the emergency response.

b) Local Government Association Workers Compensation Scheme

Council's membership of the LGAWCS ensures that all Council staff are covered for workers compensation (as required by the Worker's Compensation and Rehabilitation Act 1986) where the activity being carried out with Council plant and equipment is ordinary Council business, so the activity forms part of the employee's ordinary employment.

Pursuant to workers compensation legislation, the compensability arises from injury sustained, in the course of employment. The i-Responda framework establishes that at all times in responding to an emergency incident or disaster, the Council, the CEO and the relevant employee/s will be undertaking ordinary activity 'in the course of employment' controlled and directed by Council, including in an extraordinary event.

Council staff will retain workers compensation cover when supporting the emergency services by operating Council plant and equipment in the conduct of Council business.


c) Local Government Association Mutual Liability Scheme

For the purpose of the i-Responda framework, the Council as a member of the Local Government Association Mutual Liability Scheme is entitled to civil liability cover including proactive risk management support, pursuant to the LGAMLS Rules.

The i-Responda framework establishes that all existing LGA LGRS insurance arrangements will continue (workers compensation, public liability and asset insurance) subject to the normal terms and conditions.

6. AVAILABILITY OF POLICY


This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

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File Reference:	AF11/1741
Applicable Legislation:	Local Government Act 1999 Emergency Management Act 2004
Related Policies:	R305 – Risk Management Framework
Related Procedures:	i-Responda Council Incident Preparation Process (AR15/27414) i-Responda Council Incident Response Process(AR15/27414) i-Responda Worker Incident Response Process(AR15/27414) i-Responda – Provision of Council Resources to support the Energy Services in Emergencies Information booklet (AR15/26697)
Related Documents:	State Emergency Management Plan Employee Emergency Response Support Register(AR15/27414) Emergency Services Plant and Equipment Register(AR15/27414) Supervision of Machinery Used in Bushfire Operations (SA Govt; Ed. 2; 2011) Current 'Plant Master Listing' (Authority report - r_pl001) – internal document (EXCLUDING listed cars)

DOCUMENT DETAILS

Responsibility:	General Manager City Infrastructure
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Last revised date:	17 July 2018
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1. Introduction

- 1.1 The City of Mount Gambier ("the Council") is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.
- 1.2 The Council recognises that Fraud and Corruption in Public Administration have the potential to cause significant financial and non-financial harm and that, therefore, the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible Council.

2. Policy Statement

- 2.1 This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council.
- 2.2 This Policy outlines the Council's approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity; and summarises the associated responsibilities of Council Members and Council Employees.
- 2.3 The Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:
 - Complying with the requirements of the Independent Commissioner Against Corruption Act 2012 (ICAC Act);
 - Establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
 - Regularly undertaking risk assessments to identify circumstances in which Fraud and Corruption could potentially occur;
 - Implementing Fraud and Corruption prevention and mitigation strategies in its day to day operations;
 - Taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the ICAC Act and the reporting system established by the Independent Commissioner Against Corruption (ICAC) under section 20 of the ICAC Act; and where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary action in accordance with the Codes of Conduct for Council Members and Council Employees or if relevant, a Council Employee's contract of employment with the Council;
 - Ensuring all Council Employees and Council Members are aware of their obligations in regards to the prevention of Fraud and Corruption within the Council and the inclusion of preliminary education in any induction process;
 - Active participation in education and evaluation of practices relevant to Fraud and Corruption;
 - Fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
 - Generating community awareness of the Council's commitment to the prevention of Fraud and Corruption.

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3. Scope


- 3.1 This Policy is intended to complement and be implemented in conjunction with other Council policies, including:
- Whistleblower Protection;
 - Risk Management Framework and Internal Controls;
 - Members Allowances, Reimbursements, Benefits and Facilities Policy;
 - Code of Conduct for Council Employees;
 - Code of Conduct for Council Members.
- 3.2 This Policy applies to all disclosures that relate to the actual or suspected occurrence of Fraud and/or Corruption within the Council.

4. Definitions

For the purposes of this Policy the following definitions apply:

- 4.1 **Corruption** in public administration means:
- a) An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) Bribery or Corruption of public officers;
 - (ii) Threats or reprisals against public officers;
 - (iii) Abuse of public office;
 - (iv) Demanding or requiring benefit on basis of public office;
 - (v) Offences relating to appointment to public office.
 - b) Any other offence (including an offence against Part 5 (Offences of dishonesty) of the [Criminal Law Consolidation Act 1935](#)) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence (see Appendix 1 for examples of offences under the *Local Government Act 1999*, *Local Government (Elections) Act 1999* and *Development Act 1993*); or
 - c) Any of the following in relation to an offence referred to in a preceding paragraph:
 - (i) Aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) Inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) Conspiring with others to effect the commission of the offence.

- 4.2 **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au).
- 4.3 An **Employee** is any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.
- 4.4 A **False Disclosure** is a disclosure of information relating to Fraud or Corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.
- 4.5 **Fraud** is an intentional dishonest act or omission done with the purpose of deceiving.
- Note: unlike 'Corruption' there is no statutory definition of 'Fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences.
- 4.6 **Independent Commissioner Against Corruption (Commissioner)** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 4.7 **Manager** means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department.
- 4.8 **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:
- receive and assess complaints about public administration from members of the public;
 - receive and assess reports about Corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
 - make recommendations as to whether and by whom complaints and reports should be investigated;
 - perform other functions assigned to the Office by the Commissioner.
- 4.9 **Public administration** defined at section 4 of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.
- 4.10 **Public Officer** defined under the *ICAC Act 2012* includes:
- a Council Member;
 - a member of a Local Government body (including a subsidiary of a Council established under the Local Government Act 1999); and
 - an Employee or Officer of the Council.

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4.11 A **Responsible Officer** is a person (or persons) appointed by the Council pursuant to section 302B of the *Local Government Act 1999* who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the *Whistleblowers Protection Act 1993*.

5. Prevention

5.1 The Council recognises that:

- The occurrence of Fraud and Corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- The most effective way to prevent the occurrence of Fraud and Corruption is to promote an ethical environment in which internal control mechanisms have been implemented.


5.2 In general, the Council expects that Public Officers will assist in preventing Fraud and Corruption within the Council by:

- Understanding the responsibilities of their position;
- Familiarising themselves with the Councils policies and procedures and adhering to them;
- Understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- Maintaining an awareness of the strategies that have been implemented by the Council to minimise Fraud and Corruption;
- Being continuously vigilant to the potential for Fraud and/or Corruption to occur; and
- Reporting suspected or actual occurrences of Fraud or Corruption in accordance with Part 7 of this Policy.

5.3 Specific Responsibilities

5.3.1 Collectively, as the decision making body of the Council, **Council Members** are responsible for ensuring that the **Council**:

- Promotes community awareness of the Council's commitment to the prevention of Fraud and Corruption;
- Provides adequate security for the prevention of Fraud and Corruption. This includes the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring;
- Provides mechanisms for receiving allegations of Fraud or Corruption, including by ensuring a Responsible Officer is appointed;
- Ensures that, where appropriate, proper investigations are conducted into allegations that involve Fraud or Corruption;
- Makes reports in accordance with Part 7 of this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner);

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- Ensures that all Employees are aware of their responsibilities in relation to Fraud and Corruption through the provision of appropriate and regular training;
- Promotes a culture and environment in which Fraud and Corruption is actively discouraged and is readily reported should it occur; and
- Undertakes a Fraud and Corruption risk assessment on a regular basis.

5.3.2 **Managers** are responsible for:

- The conduct of any Employees whom they supervise and, will be held accountable for such;
- Any property under their control and, will be held accountable for such;
- Reporting in accordance with Part 7 of this Policy;
- Creating an environment in which Fraud and Corruption is discouraged and readily reported by Employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to Fraud and Corruption and, by the accountability and integrity they both display and encourage from other Employees;
- Ensuring that new Employees for whom they are responsible are aware of their responsibilities in relation to Fraud and Corruption and, of the standard of conduct expected from all Employees as outlined in the Code of Conduct for Council Employees and this Policy;
- Identifying potential Fraud and Corruption risks; and
- Leading by example to promote ethical behaviour.

5.3.3 **Employees** are responsible for:

- Performing their functions and duties with care, diligence, honesty and integrity;
- Conducting themselves in a professional manner at all times;
- Adhering to these guidelines and other Council procedures that have been established to prevent Fraud or Corruption;
- Taking care for Council's property which includes avoiding the waste or misuse of the Council's resources;
- Maintaining and enhancing the reputation of the Council;
- Remaining scrupulous in the use of Council information, assets, funds, property, goods or services; and
- Reporting in accordance with Part 7 of this Policy.

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6. Fraud and Corruption Risk Assessment Process


- 6.1 The Council's main objective in the prevention and control of Fraud and Corruption is to minimise the occurrence of Fraud and Corruption within the Council. This objective is generally achieved by:
- Identifying Fraud and Corruption Risks;
 - Determining strategies to control those risks; and
 - Defining responsibility for and, the time frame within which the strategies will be implemented.
- 6.2 Managers must be alert to the potential of Fraud and Corruption to occur and remain wary of factors which may leave the Council vulnerable to Fraud and Corruption, including:
- Changes to Council delegations;
 - Implementation of cost cutting measures;
 - Contracting out and outsourcing;
 - The impact of new technology; and
 - Changes to risk management practices.

7. Reporting Fraud and Corruption

Reporting Corruption in Public Administration to the OPI

Reports by Employees or Council Members to the OPI

- 7.1 Any Employee or Council Member who has or acquires knowledge of actual or suspected Corruption in public administration must report this information to the OPI as soon as practicable.
- 7.2 Where an Employee or Council Member suspects Corruption in public administration, that suspicion must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Employee or Council Member to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.3 Reports to the OPI by an Employee or Council Member must be made in accordance with the reporting obligations contained in section 11 of the Directions and Guidelines. In particular, the following information must be included in the report:
- 7.3.1 The Employee or Council Member identity; and
 - 7.3.2 The identity of the Council;
 - 7.3.3 The Employee's or Council Member's Council address, telephone number and email.

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7.4 In addition, the report must:

7.4.1 Identify the matter by reference to the conduct that the Employee or Council Member suspects is Corruption in public administration; and

7.4.2 Expressly identify that the Employee or Council Member suspects the conduct to be Corruption; and

7.4.3 Identify any public officer or other person suspected of having engaged in the conduct; and

7.4.4 Be accompanied by:

7.4.4.1 A statement as to how the Employee or Council Member became aware of the conduct; and

7.4.4.2 The evidence known to the Employee or Council Member including any documentation relevant to the conduct; and

7.4.4.3 A list of those persons who the Employee or Council Member believes can give evidence relevant to the conduct.

7.5 A report to the OPI by an Employee or Council Member must be made on the online report form available at www.icac.sa.gov.au.

7.6 Where the Employee's or Council Member's knowledge of Corruption has arisen due to a complaint/report he/she has received from another person (the informant), the Employee or Council Member should not include the informant's details in the report to the OPI if:

7.6.1 The report/complaint was made under the *Whistleblowers Protection Act 1993*; and


7.6.2 The informant has not consented to the informant's identity being divulged; and

7.6.3 It is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.


7.7 Nothing in this section is intended to prevent an Employee or Council Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the Council's Whistleblowers Protection Policy. Where an internal report relating to Corruption in public administration is received by another under the Whistleblowers Protection Policy the Responsible Officer must report the matter to the OPI in accordance with this Policy.

Reports by the Council to the OPI

7.8 Where the Council (i.e. Council Members collectively) has or acquires knowledge of actual or suspected Corruption in public administration it must report this information to the OPI as soon as practicable after the Council becomes aware of the matter. The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of the Council for these purposes. The Chief Executive Officer must prepare the report immediately upon receiving direction from the Council (such as via the Mayor) to do so.

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- 7.9 Any suspicion the Council has regarding conduct that constitutes Corruption in public administration must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Council to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.10 The report must:
- 7.10.1 Identify the matter by reference to the conduct that the Council suspects is Corruption; and
- 7.10.2 Expressly identify that the Council suspects the conduct to be Corruption in public administration; and
- 7.10.3 Identify any public officer or other person suspected of having engaged in the conduct; and
- 7.10.4 Be accompanied by:
- 7.10.4.1 A statement as to how the Council became aware of the conduct; and
- 7.10.4.2 The evidence known to the Council including any documentation relevant to the conduct; and
- 7.10.4.3 A list of those persons who the Council believes can give evidence relevant to the conduct.
- 7.11 A report to the OPI by the Chief Executive Officer on behalf of the Council must be made on the online report form available at www.icac.sa.gov.au.
- 7.12 Where the Council's knowledge of Corruption has arisen due to a complaint/report it received from another person (the informant), the Chief Executive Officer should not include the informant's details in the report to the OPI if:
- 7.12.1 The report/complaint was made under the *Whistleblowers Protection Act 1993*; and
- 7.12.2 the informant has not consented to the informant's identity being divulged; and
- 7.12.3 it is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
- 7.13 Any consideration by the Council of information relating to Corruption in public administration or a Council report to the OPI during a Council meeting must be considered in confidence. The grounds under section 90(3)(f) and (g) of the *Local Government Act 1999* may be relied upon to move into confidence for these purposes.

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Reporting Fraud

7.14 Any Employee or Council Member that has or acquires knowledge of actual or suspected Fraud that:

7.14.1 Does not constitute Corruption in public administration;¹ and

7.14.2 Impacts or causes detriment (or has the potential to impact or cause detriment) to the Council

must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.

7.15 A report made under clause 7.14 may be made under the *Whistleblowers Protection Act 1993* and managed in accordance with the Council's Whistleblower Protection Policy.

8. Action by the Chief Executive Officer Following Report and/or Investigation into Fraud or Corruption

8.14 Following any report to the OPI or SAPOL under this Policy (or the Whistleblower Protection Policy as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to the Council. In undertaking any review, the Chief Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman.

8.2 In the event that allegations of Fraud and/or Corruption are substantiated, the Council may take disciplinary action against any Employee who was involved.

9. False Disclosure


9.1 A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act* or makes a false or misleading disclosure, under the *Whistleblowers Protection Act 1993*, is guilty of an offence.

9.2 An Employee who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal.

10. Educating for Awareness

10.1 The Council recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

¹ Such conduct may, for example, relate to persons who are not a public officer such as a non-elected member of a Council Committee and/or a member of a Development Assessment Panel.

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10.2 The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards Fraud and Corruption.

10.3 The Council will increase community awareness by:

- Promoting the Council's initiatives and policies regarding the control and prevention of Fraud and Corruption on the Council's website and at the Council's offices;
- Make reference to the Council's Fraud and Corruption initiatives in the Council's Annual Report; and
- Facilitating public access to all of the documents that constitute the Council's Fraud and Corruption framework.

11. Conclusion


11.1 The Council has established a number of procedures to assist with the prevention and control of Fraud and Corruption. The effectiveness of these procedures will be continuously reviewed and assessed and will remain up to date with any future developments in Fraud and Corruption prevention and control techniques.

12. Review & Evaluation

This Policy is scheduled for review by Council's Audit Committee annually, however, will be reviewed as required by any legislative changes which may occur.

13. Availability of Policy


This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

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File Reference:	AF11/1740
Applicable Legislation:	Independent Commissioner Against Corruption Act 2012 Criminal Law Consolidation Act 1935 Local Government Act 1999 Local Government (Elections) Act 1999 Local Government (General) Regulations 2013 Development Act 1993 Ombudsman Act 1972 Whistleblowers Protection Act 1993
Reference:	Community Plan Goal 3 Our Diverse Economy
Related Policies:	W150 Whistleblowers Protection Policy I105 Internal Controls Policy M405 Council Members Allowances and Benefits Policy
Related Procedures:	ICAC Directions & Guidelines
Related Documents:	Code of Conduct for Council Employees (Gazetted 20/2/2014) Code of Conduct for Employees Schedule 2A of Local Government (General) Regulations 2013

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APPENDIX 1 OFFENCES

Local Government Act 1999

(a) Council Members

Member duties (sections 62(3) & (4))

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

Provision of false information (section 69)

A member of a Council who submits a return under Chapter 5 Part 4 (Register of Interest) and Schedule 3 of the *Local Government Act 1999*, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on publication of information from Register of Interests (section 71)

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice.


Maximum Penalty: \$10,000.00.

(b) Council Employees

Provision of false information (section 117)

A Council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interest) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

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Restrictions on disclosure (section 119(1))

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council Committee or a Subsidiary of the council.

Maximum Penalty: \$10,000.00.

Conflict of Interest (section 120(1), (2) & (4))

The Chief Executive of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the council and must not, unless the council otherwise determines during a council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council Committee on the matter, the employee must also disclose the relevant interest to the Council or Council Committee.

Maximum Penalty: \$5,000.00.

CEO to Assist Auditor (section 130)

The Chief Executive Officer must, at the request of the auditor of the Council, produce to the auditor for inspection the accounts, accounting records and other documents relating to the financial affairs or internal controls of the Council, or to any other matter that is being examined or considered by the auditor. The Chief Executive Officer must, at the request of the auditor of the Council, provide to the auditor explanations or information required by the auditor. A Chief Executive Officer must not, without reasonable excuse, fail to comply with subsection (1) or (2).


Maximum Penalty: \$10,000.00.

Other Investigations (section 130A(4))

The Chief Executive Officer must, at the request of a person conducting an examination under section 130A(1) produce to the person for inspection any documents relevant to the examination, and provide to the person explanations or information required by the person.

Maximum Penalty: \$10,000.00.

Powers under this Act (section 261(10))

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An authorised person, or a person assisting an authorised person, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$5,000.00.

Local Government (Elections) Act 1999

Conduct of officers (section 65)

An electoral officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election or poll.

Maximum Penalty: \$2,500.00 or imprisonment for six months

Offences (section 85)

A person who fails to furnish a return that the person is required to furnish under Part 14 Division 1 within the time required is guilty of an offence.

Maximum Penalty: \$10,000.00

A person who furnishes a return or other information that the person is required to furnish under Division 1; and that contains a statement that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an offence.

Maximum Penalty: \$10,000.00

Elected person refusing to act (section 91)

A duly qualified person who, having been duly appointed or elected as a member of a council refuses to assume office and to act in it; or neglects to assume the office and to act in it for the first three ordinary meetings of the council (without leave of the council), is guilty of an offence.

Maximum Penalty: \$750.00

Development Act 1993

Powers of authorised officers to inspect and obtain information (section 19(11))

An authorised officer, or a person assisting an authorised officer, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$4,000.00


Delegations (section 20(4))

Subject to section 20(7), a delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect private interest.

Maximum Penalty: \$8,000.00 or imprisonment for two years

Investigations (section 31A(4))

An investigator may, for the purposes of an investigation require a member or employee of the council to answer, orally or in writing, questions put by the investigator to the best of his or her

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knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.

Subject to subsection (8), a person who refuses or fails to comply with a requirement under section 31A(4) is guilty of an offence.

Maximum Penalty: \$20,000.00

Conflict of Interest (Regional Development Assessment Panel) (section 34(7))

A member of a regional development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the regional development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.


Maximum Penalty: \$15,000.00

Investigation of development assessment performance (section 45A(3))

An investigator may, for the purposes of an investigation require a member or employee of the relevant authority, or a public sector employee or council employee assigned or engaged to assist the relevant authority, to answer, orally or in writing, questions put by the investigator to the best of his or her knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.

Subject to section 45A(7), a person who refuses or fails to comply with a requirement under section 45A(3) is guilty of an offence.

Maximum Penalty: \$20,000.00

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Conflict of Interest (Council Development Assessment Panel) (section 56A(7))

A member of a council development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

Maximum Penalty: \$15,000.00

Declaration of interest (section 88B)

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person has a commercial competitive interest in the proceedings, then the person must disclose the commercial competitive interest.

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person receives, in connection with those proceedings, direct or indirect financial assistance from a person who has a commercial competitive interest in the proceedings, then both the person referred to in section 88B and the person who provided the financial assistance referred to in paragraph (b) must disclose the commercial competitive interest.

A disclosure must be made to the Registrar of the relevant court and to the other parties to the relevant proceedings in accordance with any requirements prescribed by the regulations.

A person who fails to make a disclosure in accordance with the requirements of this section is guilty of an offence.

Maximum Penalty: \$30,000.00

Interactions with a private certifier (section 97)

A person who improperly gives, offers or agrees to give a benefit to a private certifier or to a third person as a reward or inducement for an act done or to be done, or an omission made or to be made, by the private certifier in the performance of a function under this Act is guilty of an offence.


Maximum Penalty: \$30,000.00

In this section— benefit does not include a benefit that consists of remuneration or any condition of appointment or employment properly attaching or incidental to the work of a private certifier under this Act.

Confidential Information (section 102)

A person performing any function under this Act must not use confidential information gained by virtue of his or her official position for the purpose of securing a private benefit for himself or herself personally or for some other person.

Maximum Penalty: \$8,000.00 or imprisonment for two years

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A person performing any function under this Act must not intentionally disclose confidential information gained by virtue of his or her official position unless the disclosure is necessary for the proper performance of that function; or the disclosure is made to another who is also performing a function under this Act; or the disclosure is made with the consent of the person who furnished the information or to whom the information relates; or the disclosure is authorised or required under any other Act or law; or the disclosure is authorised or required by a court or tribunal constituted by law; or the disclosure is authorised by the regulations.

Maximum Penalty: \$8,000.00 or imprisonment for two years

Disclosure of financial interests – Compliance with Schedule (Schedule 2 (4))

A prescribed member of an assessment panel who fails to comply with a requirement under Schedule 2 is guilty of an offence.

Maximum Penalty: \$10,000.00

A prescribed member of an assessment panel who submits a return under this Schedule that is to the knowledge of the member false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00

Restrictions on publication (Schedule 2 (5))

A person must not publish information derived from a register under Schedule 2 unless the information constitutes a fair and accurate summary of the information contained in the register and is published in the public interest; or comment on the facts set forth in a register under Schedule 2 unless the comment is fair and published in the public interest and without malice.

If information or comment is published by a person in contravention of Schedule 2 clause 5(1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum Penalty: \$10,000.00

NOTE: *This is not an exhaustive list of offences that may be committed by a public officer and fall within the definition of ‘corruption’ in accordance with section 5(1)(c) of the ICAC Act.*

REVIEW OF CONFIDENTIALITY ORDERS – JULY 2018

	Council Meeting Date	Source Meeting	Subject	S90(3) Grounds	Confidential Element	Duration
(i)	20-Sep-16	Corporate & Community Services Committee	DEVELOPMENT CONTROL - Development Applications - Environment Resources Development (ERD) Court Actions – Ref. AF12/246	(a)	All Details	Continuing (To be reviewed at least once in every year in accordance with s91(9))
(ii)	18-Oct-16	Operational Services Committee	FINANCIAL MANAGEMENT - Caroline Landfill - Economic Analysis - Ref. AF16/159	(b)	All Details	Until Council's commercial business clientele for the relevant business operations have been advised of Council's determination in relation to the item.
(iii)	18-Oct-16	Operational Services Committee	OPERATIONAL SERVICES REPORT NO. 7/2016 - Tender AF16/277 - Caroline Landfill Development (Stage 3) Construction of Cell 3 (B & C) and Leachate Pond 4	(k)	Operational Services Report No. 7/2016 - Tender AF16/277 and Attachments	Until contract(s) have been entered into for all stages of work associated with Tender AF16/277 (to be reviewed every 12 months)
(iv)	31-Jan-17	Council (Special)	ALLEGATIONS REGARDING MAYOR ANDREW LEE TO BE REFERRED TO ICAC – Ref. AF13/275	(g)	All	Ongoing – to be reviewed annually
(v)	19-Sep-17	Operational Standing Committee	Item 7.8 Sale of Land for non-payment of Rates - Report No. AR17/31763	(a)	All Details	Until the later of:- 12 months or the matter being settled
(vi)	19-Sep-17	Operational Standing Committee	Item 7.5 Sale of Land for non-payment of Rates - Report No. AR17/31762	(a)	All Details	Until the later of:- 12 months or the matter being settled

REVIEW OF CONFIDENTIALITY ORDERS – JULY 2018

(vii)	19-Sep-17	Operational Standing Committee	Item 7.2 Sale of Land for non-payment of Rates - Report No. AR17/31728	(a)	All Details	Until the later of:- 12 months or the matter being settled
(viii)	21-Nov-17	Operational Standing Committee	Item 17.2 Legal Action - 1/29 Willow Avenue, Mount Gambier - EMT Holdings Pty Ltd - Report No. AR17/44088	(i)	All details	Until The matter is resolved or abandoned, to be reviewed at least once in every year.
(ix)	21-Nov-17	Council	Item 17.5 Report No. AR17/47214 – Surplus Government Property Notice	(b)	All details	Until all resolved actions associated with the Item have been implemented. To be reviewed once in every year if conditions for release have not been met within 12 months.