

Notice of Meeting

Audit, Risk and Improvement Committee Meeting

An Audit, Risk and Improvement Committee Meeting of Byron Shire Council will be held as follows:

Venue	Conference Room, Station Street, Mullumbimby
Date	Thursday, 16 November 2023
Time	2.00pm

Esmeralda Davis
Director Corporate and Community Services

I2023/1739
Distributed 03/11/23



BYRON
SHIRE
COUNCIL

CONFLICT OF INTERESTS

What is a “Conflict of Interests” - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary – a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Code of Conduct for Councillors (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness – a person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in the Code of Conduct for Councillors.

Who has a Pecuniary Interest? - a person has a pecuniary interest in a matter if the pecuniary interest is the interest of the person, or another person with whom the person is associated (see below).

Relatives, Partners - a person is taken to have a pecuniary interest in a matter if:

- The person’s spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. “Relative”, in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person’s spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter - however, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

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

- (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - a person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Non-pecuniary Interests - Must be disclosed in meetings.

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

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

Committee members are reminded that they should declare and manage all conflicts of interest in respect of any matter on this Agenda, in accordance with the [Code of Conduct](#).

RECORDING OF VOTING ON PLANNING MATTERS

Clause 375A of the Local Government Act 1993 – Recording of voting on planning matters

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
 - (b) not including the making of an order under that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

OATH AND AFFIRMATION FOR COUNCILLORS

Councillors are reminded of the oath of office or affirmation of office made at or before their first meeting of the council in accordance with Clause 233A of the Local Government Act 1993. This includes undertaking the duties of the office of councillor in the best interests of the people of Byron Shire and the Byron Shire Council and faithfully and impartially carrying out the functions, powers, authorities and discretions vested under the Act or any other Act to the best of one's ability and judgment.

BYRON SHIRE COUNCIL

BUSINESS OF MEETING

1. APOLOGIES	
2. DECLARATIONS OF INTEREST – PECUNIARY AND NON-PECUNIARY	
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BYRON SHIRE COUNCIL

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

3.1

ADOPTION OF MINUTES FROM PREVIOUS MEETINGS

Report No. 3.1 Minutes of the Audit, Risk and Improvement Committee Meeting held 19 October 2023

5 **Directorate:** Corporate and Community Services

File No: I2023/1571

10 **RECOMMENDATION:**

That the minutes of the Audit, Risk and Improvement Committee Meeting held on 19 October 2023 be confirmed.

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Report

This report provides the minutes of the Audit, Risk and Improvement Committee Extraordinary Meeting of 19 October 2023 for confirmation. The minutes are available for viewing here:

- 5 [Minutes ARIC 19 October 2023](#)

Report to Council

The minutes of this Extraordinary Meeting will be reported to the Ordinary Meeting on 23 November 2023.

STAFF REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 4.1 2024 Agenda Schedule

Directorate: Corporate and Community Services

5 **Report Author:** Mila Jones, Governance and Internal Audit Coordinator

File No: I2023/1614

Summary:


The purpose of this report is to present the draft 2024 Agenda Schedule for consideration and endorsement by the Audit, Risk and Improvement Committee.

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RECOMMENDATION:

15 **That the Audit, Risk and Improvement Committee considers and endorses the Agenda Schedule for 2024 (Attachment 1 E2023/107822).**

Attachments:

1 ARIC Agenda Schedule 2024, E2023/107822 

20

Report

5 The draft Agenda Schedule for 2024 contains items to be considered at each meeting to assist the Audit, Risk and Improvement Committee in fulfilling its obligations under the Constitution and the Local Government Act. An agenda schedule is prepared annually to ensure relevance of information provided to the Committee.

10 In 2023 the Committee requested that the quarterly reporting of the Operational Plan Performance Against Delivery Program and Strategies be changed to an annual report. However, should the Committee now choose to receive the report more often, this item has been listed in the attached schedule as a quarterly report. This is a matter for the Committee to decide at this meeting.

The Committee may also choose to include additional reports as required during the year, through the Chairperson.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.2: Engage and involve community in decision making	1.2.4: Advisory Committees - Coordinate advisory committees to inform decision making on their areas of expertise	1.2.4.2	Coordinate the Audit Risk and Improvement Committee and internal audit program including reporting

15 Recent Resolutions

Not applicable.

Legal/Statutory/Policy Considerations

[Section 428A of the Local Government Act 1993](#)

Financial Considerations

20 Nil for this report.

Consultation and Engagement

Consultation on the 2024 Agenda Schedule is via this report.

CONFIDENTIAL REPORTS - CORPORATE AND COMMUNITY SERVICES

Report No. 5.1 **CONFIDENTIAL - Internal Audit Report Quarter 1 2023-2024**

5 **Directorate:** Corporate and Community Services
Report Author: Mila Jones, Governance and Internal Audit Coordinator
File No: I2023/1617

Summary:

10 This report presents:

- The Internal Audit Recommendations Summary Report for Quarter 1 2023-2024 prepared by the Internal Auditor, Grant Thornton. The report is at Confidential Attachment 1.
- The full internal audit status report for Quarter 1 included at Attachment 1.
- 15 • The Internal Audit of Property Services (Community Buildings) (undertaken in June 2023) completed by Grant Thornton. The findings of this review are at Confidential Attachment 3. The audit received a review rating of *Needs Improvement* and it identified two high, three medium and two low risk rated issues.
- 20 • The Internal Audit of Developer Contributions (undertaken in August 2023) completed by Grant Thornton. The findings of this review are at Confidential Attachment 4. The audit received a review rating of *Needs Improvement* and it identified one high, three medium and three low risk rated issues.
- 25 • The Internal Audit of Disaster Recovery Planning (undertaken in October 2023) completed by Grant Thornton. The findings of this review are at Confidential Attachment 5. The audit received a review rating of *Acceptable* and it identified two moderate and one low risk rated issues and one performance improvement.
- An Internal Audit Status Update from Grant Thornton for October 2023 at Attachment 6.

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RECOMMENDATION:

- 5
1. That pursuant to Section 10A(2)(d)i of the Local Government Act, 1993, the Committee moves into Confidential Session to discuss the report Internal Audit Report Quarter 1 2023-2024.
 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it

10

 3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as the nature and content of internal audit reports is for operational purposes.

Attachments:

- 15
- 1 Confidential - Internal Audit Recommendations for Quarter 1 2023-2024 including summary from Grant Thornton, E2023/113666
 - 2 Confidential - (PRELIMINARY) Property Services Review - Internal Audit Report, E2023/109245

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 - 3 Confidential - Developer Contributions Review - Internal Audit Report, E2023/109247
 - 4 Confidential - Disaster Recovery Planning Review - Internal Audit Report, E2023/111230
 - 5 Confidential - Internal Audit Status October 2023 from Grant Thornton, E2023/113667

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Report No. 7.2 CONFIDENTIAL - Cyber Security Quarterly Update

Directorate: Corporate and Community Services

Report Author: Colin Baker, Manager Business Systems and Technology

5 **File No:** I2023/1625

Summary:

This report provides a summary of cyber security activities and IT service outages during the reporting period from 1 July 2023 to 30 September 2023

10 Two Cyber incidents were confirmed in the past quarter. Legal services provided by HWL Ebsworth has subsequently resulted in historical Council information being exposed in the legal firm's recent cyber data breach. The second cyber incident recorded was due to a misconfiguration of a reporting tool (Microsoft Power BI). No data was exposed, and this misconfiguration has been remediated.

15 There were no significant outages of online services recorded in the past quarter.

Cyber improvement activities and regular testing/assessment reviews of both Council and key vendors are ongoing. Remediation of cyber vulnerabilities is progressing well.

20 **RECOMMENDATION:**

1. That pursuant to Section 10A(2)(f) of the Local Government Act, 1993, Council resolves to move into Confidential Session to discuss the report Cyber Security Quarterly Update.
- 25 2. That the reasons for closing the meeting to the public to consider this item be that the report contains:
 - a) matters affecting the security of the council, councillors, council staff or council property
3. That on balance it is considered that receipt and discussion of the matter in open Council would be contrary to the public interest, as:
- 30 **Exposes information security risks and vulnerabilities that could assist unauthorised threats to Council's information and systems.**

**Report No. 7.3 Update information regarding proposed
Caravan Parks internal audit**

Directorate: Infrastructure Services

5 **Report Author:** Pattie Ruck, Manager Open Space & Facilities
Malcolm Robertson, Manager Open Space and Facilities

File No: I2023/1628

Summary:

This report is in response to ARIC request for an internal report from staff responding to points proposed in the Caravan Parks internal audit draft scope (Attachment 1).

10 This report addresses the points raised and aims to inform ARIC committee members on existing financial controls and processes in place for both Suffolk Beachfront and First Sun Holiday Park.

The report also outlines additional measures implemented following the 2021/22 financial audit recommendations.

15 This information is provided to allow ARIC committee members to consider the adequacy and effectiveness of existing internal financial controls and processes for the two parks.

Attachments:

20 1 Draft Scope - Caravan Parks Internal Audit for reporting to ARIC, E2023/67194 

Background

The scope of the proposed internal audit review was to “*assess the adequacy and effectiveness of internal financial controls and processes in place to completeness and accuracy of revenue generated by Caravan Parks.*”

- 5 The review was also proposed to conduct benchmarking of fees and revenue of similar caravan parks with the geographic region.

Scope of the audit was to assess:

1. Financial reporting obligations from the Contractor are met, as per Contract
- 10 2. Validation of remuneration payments to contractors in accordance with Belgravia Pro contracts
3. Financial and operational processes and systems in place to ensure the integrity of the financial and operational data.
4. Utilisation / Occupancy reporting vs. Revenue reporting including validating the information provided (including site inspections being performed)
- 15 5. Month-end reporting processes
6. Bank reconciliations
7. Management and Council reporting
8. Benchmarking of performed against similar size and locations caravan parks

20 The audit plan also referenced the 2021 / 2022 Financial Audit conducted by the AONSW, which had recommended:

9. More detailed reporting from park management to enable improved analysis and reporting of daily occupation rates and associated revenue streams.
 10. Periodic site inspections that will enable comparison of site occupancy against reported.
- 25 Staff initial response to the proposed audit was to request that ARIC consider the findings and recommendations made by the Audit Office of NSW (AONSW) in the 2021/22 Financial Audit prior to implementing a new audit. Actions recommended by the AONSW audit were to be implemented during the 2023/24 financial year, with completion by June 2024. These recommendations have been actioned in full.
- 30 The proposed audit has a cost against the operational budget for the holiday Parks of \$25,000. There are core operational matters that would benefit from this budget in the lead into the 2024 Tender for management of the Holiday Parks, including research into management models, rectifying compliance issues within the parks, and addressing cabin replacement priorities to ensure the parks retain their Approvals to Operate.
- 35 Staff have outlined existing financial controls against the draft scope items so that ARIC may determine if these provide adequacy and effectiveness of internal financial controls.

Current Internal Financial Controls

1. Financial reporting obligations from the Contractor are met as per the Contract.

5 A Contract checklist details all contractual requirements to be actioned. This checklist is completed annually throughout the contract to ensure contractors meet their obligations including financial reporting obligations.

Contract Checklist includes:

- Monthly occupancy reporting
- Monthly takings reporting
- 10 • Refund reconciliation reporting
- Weekly banking deposits

Other non-financial items are also covered off through the checklist including WHS requirements, chemical use details, safety sheets, insurance documentation, evacuation procedure manuals, park rules and incident reporting.

15 2. Validation of remuneration payments to contractors in accordance with Belgravia Pro contracts

As specified with the contract, Belgravia Pro invoice monthly. Invoices are forwarded to Council's Contract Manager with accompanying Takings Report from the Newbook software booking system.

20 The Newbook Takings Report breaks down sources of income. The Newbook figures are cross checked against the invoice breakdown received from Belgravia, and then reconciled against Councils facility management spreadsheet which details contract requirements. The invoices are then linked to the contract register in Authority by administration staff.

25 3. Financial and operational processes and systems in place to ensure the integrity of the financial and operational data.

30 Invoices and accompanying takings report from the Newbook software booking system are forwarded to Council for payment monthly. Council has independent access to this booking system for review if required. Takings reports provided through Newbook break down the sources of income. For example, cabin 1, or safari tent 2 or site no 7. These figures are compared to Belgravia's invoice to confirm the breakdown matches the invoiced figure for both parks.

35 Council has also introduced onsite ad hoc spot checks to ensure information in the booking system is reconciled with onsite occupancy. This process is completed by Council staff on a random monthly basis with no pre warning to the onsite managers. Council staff visit the parks and require a printout of the occupancy list times. This occupancy report itemises sites, guest names, check-in and check-out dates and provides

occupancy details which is then compared to what is occurring on the ground. Council staff then walk through the park and note down occupied and unoccupied sites and reconcile this with the occupancy report.

5 **4. Utilisation / Occupancy reporting vs. Revenue reporting including validating the information provided (including site inspections being performed)**

As per contract, Belgravia Pro provide monthly takings and occupancy reports. These reports breakdown the income sources and occupancy percentages from each type of accommodation and provide occupancy rates.

10 In response to the recommendation from AONSW Council staff have implemented a robust onsite investigation process. Onsite ad-hoc spot checks are completed monthly to ensure information in the booking system is reconciled with onsite occupancy. This process is completed on random timing with no pre warning. Current electronic printout of the occupancy list is obtained from the park front office and a walk through the park completed to reconcile booking system data against actual occupancy.

15 Anomalies have been noted through the onsite check, such as the occupancy report detailing a guest on a site, but the site being unoccupied, or the walk through identifies a site being occupied with the report indicating it is free. These discrepancies are followed up with management. To date valid explanation has been provided in all identified discrepancies. Common causes are a guest having checked out early, but still showing as
20 on site, or where a guest has moved sites resulting in their allocated site being vacant. All discrepancies are noted. To date, this monthly validation process has not required further investigation, as all discrepancies have been substantiated.

5. Month-end reporting processes

25 Contractors provide both monthly occupancy reports and takings reports. Staff undertake reconciliation of takings reports with monthly contract invoices. Monthly onsite spot checks undertaken by Council staff to ensure occupancy rates match takings and occupancy reports.

30 Monthly financial reporting is provided to the Executive Team and Managers outlining progress against Holiday Park budgets. This reporting identifies variances or anomalies, which are then investigated by staff. Mostly variances occur due to under/over estimation of income or expenditure, either through misalignment of budget profiling or where seasonal occupancy does not match expected.

6. Bank reconciliations

35 Belgravia Pro bank takings weekly. The weekly banking amount is reconciled with the takings report by finance staff and then input in Authority. The holiday parks utilise industry specific software "Newbook" to produce their reports, issue receipts and handle bookings. This software is used extensively throughout the holiday park industry. There is no direct integration with Authority but Council has independent access to the software system.

40

7. Management and Council reporting

Monthly financial reporting is provided to the Executive Team and Managers outlining progress against Holiday Parks budgets. Budgets for the parks are adopted annually, quarterly budget reviews are undertaken and reported to management and Council.

- 5 Ad hoc Management and Council reporting is undertaken when operational and budget decisions are necessary to improve park operations outside of delegated authority.

Byron Shire Council Holiday Parks are a Category 1 declared business activity. Income Statements and Statements of Financial Position for the Holiday Parks Business Activity are published within the Annual Report special purpose financial statements.

10 **8. Benchmarking of performance against similar size and locations caravan parks.**

During Council’s annual fees and charges process both holiday parks undertake a benchmarking comparison including reporting from Review Pro. Review Pro provides reports and insights to benchmark a property against competitors in the region, as shown in the two extracts below. The Review Pro ratings are monitored on an ongoing basis to identify if there are any trends that need to be addressed.

15

Figure 1: First Sun Global Review Index Assessment Sept / Oct 2023

Department	Index
..... GRI™	95.8% +4.8
✦✦✦ Cleanliness	98.7% +5.8
📍 Location	99.2% +2.1
👤 Service	99.0% +5.2
💰 Value	91.3% +6.8
🚪 Room	95.9% +1.6

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Figure 2: Holiday Parks Northern Rivers Competition Ranking Sept / Oct 2023

Establishment	Index	
First Sun Holiday Park	95.8%	+4.8
Suffolk Beachfront Hol...	94.2%	-3.2
Reflections Holiday Pa...	93.7%	+11.6
Ingenia Holidays Byron...	87.0%	+5.1
Glen Villa Resort	81.0%	+0.6
Discovery Parks - Byro...	80.8%	-6.1

5 This benchmarking, along with analysis of published rates for competing businesses, provides the onsite contractors and Council an opportunity to set fees and charges for the parks that will remain competitive within the caravan park market in the Northern Rivers area. Council is at a disadvantage as we are required to display prices as a part of the fees and charges process. Competitors are not required to do this.

10 Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
5: Connected Infrastructure	5.4: Provide accessible community facilities and open spaces	5.4.5: Commercial facilities - Effectively manage Council owned commercial properties including holiday parks and Tyagarah airfield	5.4.5.1	Ongoing Management of First Sun and Suffolk Park Holiday Parks contracts, operations, maintenance and capital renewal programs

Alignment with ARIC Responsibilities

This report has been prepared to support the committee in fulfilling the following responsibilities as set out in the ARIC Constitution:

- 5
- 5.4. Financial Management**
Review and advise Council:
- c) of the implications for Council of the findings of external audits and performance audits and Council's responses and implementation of recommendations
 - 10 g) if Council's financial management processes are adequate
- 5.5. Governance**
- c) Review whether management has adequate internal controls over external third parties such as contractors and advisors.
- 15

Financial Considerations

The two holiday parks are declared business activities of Council for the purposes of National Competition Policy reporting. Annual special purpose financial reports outline the performance of the holiday parks within Council's published financial statements.

- 20 The financial statements show a required rate of return based off the Commonwealth 10-year bond rate (3.66% for 2022) and then calculate the notional subsidy if the result does not match that. Details of this are in the notes to the special purpose financial reports.

- 25 Council holiday parks are profitable, currently debt free, and provide a sizeable contribution to the General Fund in terms of dividend and funding of corporate overheads to the tune of \$1.568million in the 2021/2022 financial year. Without that contribution to the General Fund, Council would be forced to reduce services elsewhere.

- 30 Financial Results for the 2022-2023 financial year have shown that holiday park revenues have grown \$1.697million compared to 2021-2022 financial year as advised to the Audit, Risk and Improvement Committee following consideration of the Draft 2022-2023 Financial Statements at the 19 October 2023 Committee Meeting.

Report No. 7.4 Delegation of Functions 2023

Directorate: Corporate and Community Services

Report Author: Mila Jones, Governance and Internal Audit Coordinator


File No: I2023/1608

5 **Summary:**

This report is presented to the Audit, Risk and Improvement Committee (ARIC) to assist the Committee in fulfilling its obligations under its Constitution and the Local Government Act 1993.

10 Administration and review of Council's delegations is conducted by the Governance and Internal Audit Coordinator on a weekly basis and reported to the Executive Team every six months and to the ARIC annually in accordance with the ARIC Annual Agenda Schedule.

Attachments:

15 1 Delegation of Functions - Mayor, General Manager, Directors, E2023/107820 

Report

This report is submitted to assist the Audit, Risk and Improvement Committee in fulfilling its obligations under its Constitution and the *Local Government Act 1993*.

5 In accordance with section 377 of the *Local Government Act 1993* Council, by resolution, delegates its powers, authorities, duties and functions to the General Manager.

The General Manager is empowered to delegate powers, authorities, duties and functions to Council staff.

10 The full list of functions and authorities that have been delegated to the Mayor, General Manager and Council staff is maintained and administered in Council's Delegations Register. This register is reviewed weekly and updated six monthly or sooner if required, and may be amended due to legislative changes, policy changes, resolutions of Council or otherwise. There are a total of 241 active functions and authorities in Council's Delegations Register, with the relevant delegations assigned to approximately 340 staff, contractors and the Mayor.

15 ***Mayor and General Manager Delegations***

The Mayor's delegations have not changed since 23 June 2022 as reported to ARIC on 17 November 2022. The General Manager's delegations have been updated for the sole purpose of removing a time sensitive delegation that was only applicable for 12 months following a natural disaster (BSC113). Attachment 1 to this report provides the current 20 delegations to the Mayor, General Manager and Directors.

Review of Legislation 2022-2023

During this review period, the amended, new or repealed legislation listed below was noted to have had no, or minimal, impact on Council's register of delegations:

- 25 1. *Aviation Transport Security Regulations 2005*
2. *Biodiversity Conservation Act 2016*
3. *Biosecurity Act 2015*
4. *Boarding Houses Act 2012*
5. *Building and Development Certifiers Act 2018*
- 30 6. *Cemeteries and Crematoria Act 2013*
7. *Children and Young Persons (Care and Protection) Act 1998*
8. *Children's Guardian Act 2019*
9. *Community Land Development Act 2021*
10. *Community Land Management Act 2021*
- 35 11. *Companion Animals Act 1998*
12. *Companion Animals Regulation 2018*
13. *Competition and Consumer Act 2010 (Cth)*
14. *Constitution Act 1902*
15. *Crimes Act 1900*
16. *Criminal Procedure Act 1986*
- 40 17. *Design and Building Practitioners Act 2020*
18. *Disability Inclusion Act 2014*
19. *Electricity Supply (General) Regulation 2014*

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20. *Electricity Supply Act 1995*
21. *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*
22. *Environmental Planning and Assessment Act 1979*
- 5 23. *Environmental Planning and Assessment Regulation 2021*
24. *Fines Act 1996*
25. *Fisheries Management Act 1994*
26. *Fire and Rescue NSW Act 1989*
27. *Food Act 2003*
- 10 28. *Fringe Benefits Tax Assessment Act 1986 (Cth)*
29. *Government Information (Public Access) Act 2009*
30. *Health Records and Information Privacy Act 2002*
31. *Heavy Vehicle National Law (NSW)*
32. *Public Spaces (Unattended Property) Act 2021*
- 15 33. *Land and Environment Court Act 1979*
34. *Liquor Act 2007*
35. *Local Government (General) Regulation 2021*
36. *Local Government Act 1993*
37. *Local Land Services Act 2013*
- 20 38. *Ombudsman Act 1974*
39. *Plumbing and Drainage Act 2011*
40. *Privacy and Personal Information Protection Act 1998*
41. *Protection of the Environment Operations (Clean Air) Regulation 2021*
42. *Protection of the Environment Operations (Clean Air) Regulation 2022*
- 25 43. *Protection of the Environment Operations (Noise Control) Regulation 2017*
44. *Protection of the Environment Operations (Waste) Regulation 2014*
45. *Protection of the Environment Operations Act 1997*
46. *Protection of the Environment Operations (General) Regulation 2022*
47. *Public Health Act 2010*
- 30 48. *Public Interest Disclosures Act 1994*
49. *Public Spaces (Unattended Property) Act 2021*
50. *Road Rules 2014*
51. *Road Transport Act 2013*
52. *Road Transport (General) Regulation 2021*
- 35 53. *Roads Regulation 2018*
54. *Rural Fires Act 1997*
55. *State Emergency and Rescue Management Act 1989*
56. *State Emergency Service Act 1989*
57. *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- 40 58. *State Records Act 1998*
59. *Strata Schemes Management Act 2015*
60. *Swimming Pools Act 1992*
61. *Water Management Act 2000*
62. *Work Health and Safety Act 2011*
- 45 63. *Workers Compensation Act 1987*

Review of Financial Delegations

To clarify for staff the financial limits of delegations, a review has been undertaken of all delegations that state a monetary figure. The purpose was to clarify whether the figure is inclusive or exclusive of GST. As a result of the review, the following delegations have been amended to include whether the figure excludes or includes GST.

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BSC00 - BSC006	<p>Authorise expenditure up to the limit of authority, being financial delegation to \$1000/2000/5000/10000/20000/50000/100000/250000 (ex GST) per transaction</p> <p>Obtain quotations and authorise the purchase of, and issue official orders for goods, works and services required for the functioning of the Council and to incur expenditure for such goods, works and services (excluding that for the purchase of major items or works, plant, and/or motor vehicles) provided that and subject to:</p> <p>a) due provision has been made in the approved Budget for the incurring of such expenditure; or</p> <p>b) the incurring of such expenditure is otherwise authorised as per the Procurement and Tendering Policy and Guidelines; and</p> <p>c) the delegate not accepting tenders which are required by the Act to be invited by Council.</p>
BSC067	<p>Funding agreements – Children’s services</p> <p>Create funding agreements including Inclusion Support and other funding agreements up to the value of \$50,000 (ex GST)</p>
BSC072	<p>Write off rates and charges payable up to a maximum amount</p> <p>Write off, in accordance with Regulation, rates and charges payable, up to a maximum of \$1,000 (ex GST) per transaction if the person is unable to pay due to circumstances beyond their control or payment would cause undue hardship, in accordance with Council policies and procedures</p>
BSC091	<p>Commencing or defending legal proceedings</p> <p>Delegation to commence or defend legal proceedings is limited to those proceedings in which Council's external solicitors (if engaged) estimate, in writing, that the professional legal costs for the proceedings will be less than \$50,000 (ex GST) unless commencement or defence of legal proceedings has otherwise been authorised by Council resolution. Where Council's external solicitors are not engaged delegation to commence or defend legal proceedings is limited to those proceedings in which Council's internal solicitors estimate, in writing, that the disbursements for the proceedings will be less than \$50,000 (ex GST) unless commencement or defence of legal proceedings has otherwise been authorised by Council resolution. Exercise of delegation is subject to Councillors being informed by memorandum of its exercise and the progress of the proceedings, together with current cost expenditure, being reported to councillors monthly.</p>
BSC102	<p>Restrictions on writing off debts to a council</p> <p>The amount above which debts to the Council may be written off only by resolution of the Council is \$10,000 (ex GST)</p>
BSC106	<p>Enter into a contract or authorise expenditure for works, for an amount not exceeding \$50,000 (ex GST)</p> <p>Enter into a contract or authorise expenditure for works, for an amount not exceeding \$50,000 (ex GST) provided:</p> <p>a) The matter is urgent and cannot wait until the next available Ordinary Meeting.</p> <p>b) For amounts over \$15,000 (ex GST) the concurrence of the General Manager is required.</p> <p>c) Must be reported to the next available Council meeting.</p>

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BSC113	<p>Not currently in use:</p> <p>Entering contracts primarily for the purpose of response to or recovery from a declared natural disaster</p> <p>Enter contracts up to \$2,000,000 (ex GST) but only for a contract that –</p> <p>a) is primarily for the purpose of response to or recovery from a declared natural disaster (as defined in the Regulation), and</p> <p>b) is entered into within 12 months after the date on which the natural disaster is declared.</p>
DEG002a	<p>Acceptance of tenders other than to provide services currently provided by members of staff of the council (s377(1)l of LGA)</p> <p>Acceptance of tenders is limited to:</p> <p>a) Capital works specifically itemised in a budget approved by Council (as long as the tendered amount falls within the approved budget); or</p> <p>b) Renewal of existing contracts; or</p> <p>c) Contracts that are less than \$500,000 (ex GST) in value</p>
DEG088a	<p>Development assessment determination exceptions Director</p> <p>Make all determinations necessary under Part 4 Development Assessment and Consent of the Environmental Planning and Assessment Act, 1979 (Delegation DEG088) except as listed below:</p> <p>...</p> <p>ii. Any development application that has an estimated value exceeding \$10,000,000 (inc GST) or for subdivision of land that will create 10 or more lots. (Res 22:311)</p> <p>...</p> <p>v. Any development application where there is a SEPP 1 Application to vary development standards by 10% or more (except when associated with Development Applications with an estimated value exceeding \$10,000,000 (inc GST) or any subdivision exceeding 10 lots). (Res 22-311)</p>
DEG088b	<p>Development assessment determination exceptions Manager</p> <p>Make all determinations necessary under Part 4 Development Assessment and Consent of the Environmental Planning and Assessment Act 1979 (Delegation DEG088) except:</p> <p>a) Any development application that has an estimated value exceeding \$2,000,000 (inc GST)</p>
DEG088c	<p>Development assessment determination exceptions team leader/major projects planner</p> <p>Make all determinations necessary under Part 4 - Development Assessment and Consent of the Environmental Planning and Assessment Act, 1979 (Delegation DEG088) except:</p> <p>...</p> <p>n) Any development application that has an estimated value exceeding \$1,500,000 (inc GST).</p>
DEG088e	<p>Applications under Part 4 of the Environmental Planning and Assessment Act 1979</p> <p>Delegations do not include determination of any:</p> <p>Development Application or Section 4.55 Modification Application that is referred to</p>

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7.4

Council by the Planning Review

Committee unless the stated issues requiring referral are subsequently resolved to the satisfaction of the Planning Review Committee. Application that has an estimated value exceeding \$10,000,000 (inc GST) or for subdivision of land that would create 10 or more lots...

Key issues

5 The delegations assigned to the Mayor and staff are based on the position they hold in Council and the tasks they are required to perform in that position. Staff are at risk of undertaking their roles illegally or not in accordance with Council's resolutions or policies, when acting outside their delegations or by having incorrect delegations assigned to them.

To increase understanding and acceptance of delegations, the Mayor and staff are required to acknowledge each function and authority either electronically within the Delegations Register or in writing. This is done upon commencement of their role or when delegations change.

10 **Enterprise Risk Management**

Delegations are listed as a control measure in Council's Risk Register with regard to the following risk areas:

Risk Title	Risk Description
Corporate Compliance	Council does not implement adequate processes and controls to ensure corporate compliance across the organisation and prevent fraud and corruption leading to significant illegal, fraudulent or corrupt activity and/or breach of legislative or regulatory, requirements resulting in penalties/sanctions, legal disputes or litigation and financial loss
Fraud - Unauthorised Delegation	Council is bound to certain legal and service obligations due to an officer of Council acting outside of their delegation resulting in financial loss, potential legal ramifications and reputational harm.

Strategic Considerations

Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership We have effective decision making and community leadership that is open and informed	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.2	Maintain, publish and report on relevant registers including delegations, Councillors and designated staff disclosures of interests, Councillor and staff gifts and benefits, and staff secondary employment.

Legal/Statutory/Policy Considerations

- [Section 377 of the Local Government Act 1993](#)
- 5 • [Section 378 of the Local Government Act 1993](#)
- As identified in the body of the report.

Alignment with ARIC Responsibilities

This report has been prepared to support the committee in fulfilling the following responsibilities as set out in the ARIC Constitution:

- 10 **5.5. Governance**
 - a) Review whether appropriate processes and systems are in place for the management and exercise of delegations.

Financial Considerations

There are no financial considerations.

15 **Consultation and Engagement**

Prior to making any amendments to Council’s Delegations Register, consultation is held with relevant managers, the Executive Team, Council and when required, a firm of solicitors that Council subscribes to for the purpose of delegations.

**Report No. 7.5 Annual Legislative Compliance Status
Report 2022-2023**

Directorate: Corporate and Community Services

Report Author: Mila Jones, Governance and Internal Audit Coordinator

5 **File No:** I2023/1616

Summary:

This report presents the status of Council's compliance with legislative reporting requirements for the 2022-2023 financial year.

10 **Attachments:**

1 Legislative Compliance Reporting Register - Status as at 30 June 2023, E2023/77387 

Report

5 The attachment to this report provides evidence of Council’s compliance with legislative reporting requirements for 2022-2023. For this period there were mostly no areas of concern where compliance was not met, or where actions had not been taken towards compliance. There were two low risk instances of non-compliance relating to:

1. The requirement for Council’s GST Certificate to be submitted to the Office of Local Government
2. Public Interest Disclosures half yearly report to be lodged with the NSW Ombudsman

10 Measures have been taken to overcome these failures. These items are denoted in red in the attached report.

Compliance reviews assess whether specific legislation, directions and regulations have been adhered to. Council’s Legislative Compliance Reporting Register provides:

- 15 • a system to retrospectively report on compliance.
- a systematic approach to the compliance calendar produced by the Office of Local Government but also includes various other reporting obligations including those required of environmental planning licences, Government Information (Public Access) Act, Protection of the Environment Operations Act and others.

20 The register itself will not ensure compliance, however it provides a prompt and a tool to ensure Council takes a systematic and comprehensive approach to reviewing and reporting on compliance.

Strategic Considerations

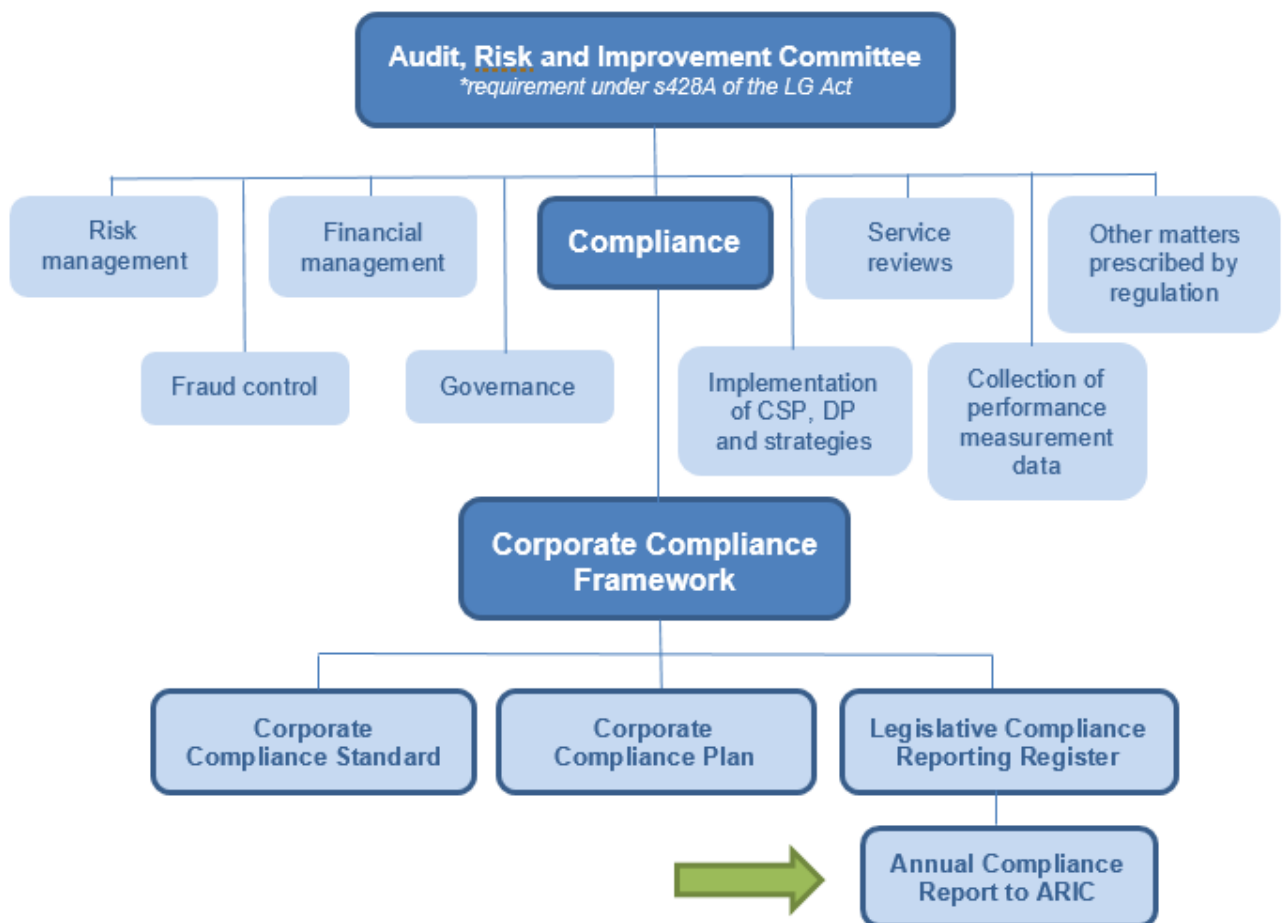
Community Strategic Plan and Operational Plan

CSP Objective	CSP Strategy	DP Action	Code	OP Activity
1: Effective Leadership	1.1: Enhance trust and accountability through open and transparent leadership	1.1.2: Governance - Ensure legislative compliance and support Councillors to carry out their civic duties	1.1.2.1	Coordinate review, maintain and report on Council's Legislative Compliance Reporting Register

Legal/Statutory/Policy Considerations

This report meets the requirements of the Office of Local Government’s proposed Risk Management and Internal Audit Framework, and Council’s Corporate Compliance Framework.

- 5 Council’s Corporate Compliance Framework includes:
- Corporate Compliance Plan (adopted by Council on 25 June 2020)
 - Corporate Compliance Standard (adopted by Council on 25 June 2020)
 - Legislative Compliance Reporting Register (Attachment 1)



- 10 A compliance framework is important as it:
- promotes a culture of compliance
 - fosters continuous improvement in compliance processes
 - ensures obligations are met and helps the organisation demonstrate its corporate and social responsibilities.

Alignment with ARIC Responsibilities

This report has been prepared to support the committee in fulfilling the following responsibilities as set out in the ARIC Constitution:

5.1. Compliance

- 5 c) Review the effectiveness of the system for monitoring compliance with laws and regulations, policies and procedures.

Financial Considerations

Nil.

Consultation and Engagement

- 10 This status report was presented to the Executive Team on 9 August 2023 following consultation with relevant managers and staff for the completion of the status update.