



muswellbrook shire council

DRAFT Governance Policy

MSC00E

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Community Strategic Plan Goal	6. Collaborative and responsive community leadership that meets the expectations and anticipates the needs of the community		
Community Strategic Plan Strategy	6.2 Ensure Council is well managed, appropriately resourced, effective, efficient, accountable and responsive to its communities and stakeholders		

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1. Policy Objective

The purpose of this Policy is to commit Council to sound governance and to document how governance is carried out by the Governing Body of the Council (Councillors).

This Policy, and the principles set out in the Policy, aim to:

- Achieve the highest standards of governance.
- Ensure the compliance of Councillors, Council staff and delegates with relevant legislation.

2. Risks being addressed

This Policy mitigates potential risks to the implementation of Council's Delivery Program and Operational Plans which may occur due to poor governance.

3. Scope

This Policy applies to Councillors, all staff and volunteers engaged directly by Muswellbrook Shire Council, as well as all agents and contractors either engaged by Council or by an authorised contractor of Muswellbrook Shire Council.

4. Definitions

Council means Muswellbrook Shire Council.

Governing Body means the Governing Body of Council.

Council Policies (or External policies) means all policies adopted by Council.

Internal Policies means all policies that relate to Staff only.

Procedures are a set of instructions that provide administrative control to give effect to policies.

Guidelines are complementary, supporting information or advice or recommended practices.

Magiq is Council's current electronic record keeping system.

Policy Register is Council's suite of adopted policies and procedures.

Public Officer is the Director – Property & Place.

Fraud is dishonestly obtaining a benefit or causing a loss (which is more than a trivial benefit or loss) by deception or other means such as the deliberate falsification, concealment, destruction or use of falsified business documents. Examples of fraud include but are not limited to:

- a. payroll fraud (eg falsifying timesheets, failure to submit leave forms);
- b. theft or unauthorised use by employees of council resources including plant equipment, inventory and materials (eg unauthorised use of Council vehicles);
- c. accounts receivable fraud including the misappropriation or misdirection of money received by Council;
- d. procurement fraud;
- e. IT-related fraud including misappropriation of funds or other assets through unauthorised access to data, misuse of email, manipulation of information technology systems, and unauthorised use of passwords;

Corruption and corrupt conduct will have the same meanings as defined in the Independent Commission Against Corruption Act 1988 (the ICAC Act). Corruption can manifest in numerous ways, examples of which include:

- a. making knowingly inappropriate regulatory decisions such as those related to development, and that result in a Personal Benefit;
- b. applications and enforcement action based on the receipt of a Personal Benefit;
- c. tender contracts awarded to third parties in exchange for receipt of a Personal Benefit;
- d. favourable planning decisions regarding rezoning, Council's local environmental plan or development control plans in exchange for Personal Benefit;
- e. bypassing recruitment procedures to employ friends or family members;
- f. accessing confidential ratepayer information as a favour to a friend or relative; using a corporate card to pay for unauthorised/ personal items.

5. Policy Statement

5.1 Key principles

The following key principles underpin the direction of the Governing Body:

- a) human health and safety;
- b) a diverse and competitive industrial base;
- c) the social benefits of work and the importance of full employment;
- d) the importance of education;
- e) ecologically sustainable development;
- f) financial sustainability;
- g) consultative and transparent processes;
- h) social inclusion and particularly reconciliation with Aboriginal peoples;
- i) social justice principles of equity, access, and participation; and
- j) a Council workforce encouraged to innovate, provided with flexible work arrangements and which is healthy, supported, and team oriented.

Policies which are developed and decisions which are made should be guided by the above key principles.

5.2 Principal activities

The functions of Council are to be divided into the principal activities set out in the following table:

	Principal activity	Function
1	Infrastructure	Local roads, bridges, footpaths, cycle ways, storm water drainage devices and related infrastructure.
2	Utilities	Muswellbrook Water and Wastewater and the Waste Management Centre.
3	Emergency Services	Emergency services, fire and flood prevention, protection and mitigation services and facilities.
4	Finance, Corporate Services, Community Engagement & Integrated Planning	Preparation of the budget (including reviews and amendments) for Council adoption; the management of Council's commercial property fund and land and property development. Council policy, corporate services (other than finance), and integrated planning and reporting.

	Principal activity	Function
5	Innovation, Land Use Planning Heritage	Fostering innovation and heritage related matters.
6	Community Services	The planning and delivery of community services other than artistic or cultural related services or services relating to Aboriginal reconciliation.
7	Development Assessment & Regulation	Strategic environmental planning and the making of submissions in relation to developments of Regional or State significance.
8	Social Inclusion	Delivery of programs for social inclusion.
9	Aboriginal Reconciliation	The on-going reconciliation between Aboriginal and non-Aboriginal peoples.
10	Recreation & Wellbeing	The delivery of wellbeing programs and recreation services.
11	Sport	The delivery of sport services.
12	Arts	The delivery of community services related to arts and culture.
13	Events	Events organised by Muswellbrook Shire Council.
14	Sustainability	Ecological environment and sustainable development.

5.3 **Policy development**

Refer to Council's *Policy on Policy Making MSC25E*.

5.4 **Code of Conduct and Code of Meeting Practice**

Refer to Council's *Model Code of Conduct MSC34E* and *Model Code of Meeting Practice*.

5.5 **Delegations to Councillors**

Refer to Council's *Section 355 Committee Guidelines MSC22E*.

Any delegation concerning a decision-making function exercisable by a Councillor, must include a requirement for consultation with each other Councillor prior to the making of a decision, the obtaining and distribution of any advice provided by the General Manager, appropriate record keeping and the reporting of the decision made under delegated authority to the next Ordinary Council Meeting.

If a Councillor believes that a decision made under delegated authority is:

- a) not likely to be supported by a majority of Councillors; or
- b) likely to be controversial; or
- c) likely to benefit from significant further investigation or advice;

The Councillor should refer the matter to the next Ordinary Council Meeting for determination rather than proceed to determine the matter under delegated authority.

A Councillor must not make a decision under delegated authority if the Councillor holds a pecuniary or significant non-pecuniary interest in relation to the matter.

5.6 The discharge of representative responsibilities

Councillors may be requested to attend a number of different events in a civic capacity and care should be taken to consider in what role the Councillor is attending.

Representing the community

Where a Councillor represents the Council at a ceremonial or commemorative occasion, the Council notes that, generally, the invitation is as a civic representative of the whole community rather than as a representative of the Governing Body. Councillors on these occasions should discharge their duties in a non-political and non-partisan manner. Citizenship ceremonies will be conducted in accordance with all Federal Government regulations as amended from time to time.

Representing the Governing Body

Where a Councillor represents the Governing Body at an event other than on a ceremonial or commemorative occasion, the Councillor should take care to distinguish between a personal position of that Councillor and the position of the Governing Body. These events are important opportunities for the Governing Body to inform the wider community of its positions and policies and Councillors should, where possible, take the opportunity to engage the community in discussion on those matters.

A personal event

Where a Councillor attends a function or event in a personal capacity, care should be taken to distinguish between personal positions of that Councillor and the position of the Governing Body.

Community Consultative Committees (CCC)

Where the Council is requested to appoint a representative to a Community Consultative Committee established in accordance with the *Community Consultative Committee Guideline: State Significant Projects January 2019* (as amended or replaced), any appointment will be in accordance with the instrument of appointment. In the absence of an express written delegation, the Governing Body cannot be taken to have delegated any of its powers or functions to an appointee.

5.7 Order of flags

Council will observe the protocols adopted by the Commonwealth for the flying of the Australian National Flag, the Aboriginal Flag, the Torres Strait Islander Flag and all other recognised flags.

5.8 Recognition of first peoples

It is Council's policy that the Chairperson of the Local Aboriginal Land Council be recognised as the holder of an honorary civic office. It is Council's policy that at Council events an appropriate acknowledgment of the local Aboriginal peoples as the traditional owners of the land and that an appropriate acknowledgement takes place. Council acknowledges the local civic traditions of the Aboriginal people exist side by side with the European civic tradition adopted by Council. Refer to Council's *Acknowledgement of Country Protocol Statement*.

5.9 Opening of Council term

The first Ordinary Council Meeting following a General Election will be marked by a formal opening of term. The Chairperson of the Local Aboriginal Land Council and a representative of the local clergy should be invited, on such occasions, to give a welcome to country and read the civic prayer (or variation) respectively. Representatives from community groups and associations should receive a written invitation to attend.

5.10 The honorary office of Emeritus Mayor

Council may resolve to appoint a person to the honorary office of Emeritus Mayor provided that the person:

- (a) has served as mayor for a minimum of three years;
- (b) has made an outstanding contribution to the Shire;
- (c) is retired from public life; and
- (d) is ready, willing and able to perform ceremonial functions on behalf of the Council.

The role serves as a mechanism for seamless transition between elected councils, the proper acknowledgement of contributions by retired mayors, and an encouragement to retired mayors to contribute to the further advancement of the Shire in retirement.

The creation of an office of Emeritus Mayor also provides a mechanism by which Council can be represented at significant community events where serving Councillors are unable to attend. Such events are typically arranged by members of the community. Serving Councillors may be reluctant to attend such events because of a desire to bring an impartial mind to the exercise of a responsibility concerning that member of the community (or a sponsor) in the future.

Any expenses incurred by the Emeritus Mayor in the performance of his or her representative function will be funded from the elected Mayor's allowance.

5.11 The use of Council's Coat of Arms

The Shire's Coat of Arms is to be used generally where the whole community is the subject of the representation rather than the Governing Body or the corporate entity of Council. The Coat of Arms should be used on civic documents in which a ceremonial or commemorative function is certified.

No other body or organisation is permitted to use the Council's Coat of Arms without the written approval of the Council.

5.12 The Council's corporate logo

The General Manager may set a corporate logo and brand from time to time. The Council's logo is to be used generally where the Governing Body or the Council as a corporate entity is the subject of the representation rather than the Shire community as a whole. The General Manager may authorise, from time to time, a protocol for the use of the corporate logo by Council officers.

5.13 Certain functions to be exercised independently of the Governing Body

In addition to functions required by law to be exercised for the Council by the General Manager or Public Officer, it is Council's policy that the following additional functions of Council have autonomy from the decision-making of the Governing Body:

- (a) The purchase of art works by or the selection of works for exhibition at, the Upper Hunter Regional Art Gallery;
- (b) The purchase of books or education material by the Upper Hunter Regional Library;
- (c) The investigation, prosecution or sanctioning of any person under any regulatory power other than a power relating to the Council's Code of Conduct or Code of Meeting Practice.

None of the above limits, however, the Governing Body's exercise of a budgetary function to limit or extend the resources applied to the above functions.

5.14 Gifts, Bribes & Benefits

Refer to Council's *Gifts, Bribes & Benefits Policy B15/1*.

5.15 Fraud and Corruption

Refer to Council's *Fraud and Corruption Control Policy MSC18E*.

5.16 Assessment and determination of planning applications made by Council, Councillors and Designated Staff Members

Refer to Council's *Council Development Conflict of Interest Management Policy MSC35E*.

5.17 Councillor Expenses and Facilities

Refer to Council's *Councillor Expenses and Facilities Policy MSC02E*.

5.18 Internal Reporting

Refer to Council's *Internal Reporting – Public Interest Disclosures Policy MSC16E*.

5.19 Councillor Meetings with Developers and Lobbyists

Refer to Council's *Councillor Meetings with Developers and Lobbyists Policy MSC17E*.

5.20 Provision of Information to and Interaction Between Councillors and Staff

Refer to Council's *Provision of Information to and Interaction Between Councillors and Staff Policy C42/2*.

6. Delegations

The Mayor and General Manager are authorised to interpret and implement this Policy.

The Deputy Mayor is authorised to interpret and implement this Policy together with the General Manager on matters involving the Mayor.

7. Dispute Resolution

A Councillor shall notify the Mayor in writing of any dispute in relation to this Policy. A meeting shall be held between the Councillor, Mayor and the General Manager to discuss the dispute. A remedy should be reached within two weeks of the notification. If the matter remains unresolved, independent dispute resolution advice may be sought.

In any situation where a request, dispute or payment involves the Mayor, the Deputy Mayor will be required to authorise the process.

8. Related Documents

8.1 Legislation

- Local Government Act 1993
- Government Information (Public Access) Act 2009
- Crimes Act 1900
- Australian Standard on Fraud Control and Corruption controls (AS8001:2008)
- Australian Standard in Risk management (AS 4360:2004)
- ICAC Direct Negotiations: Guidelines for Managing Risks 2018

8.2 Policies and Procedures

- Policy on Policy Making MSC25E – Doc ID 893605
- Model Code of Conduct MSC34E – Doc ID 1436817
- Model Code of Meeting Practice – Doc ID 955841
- Section 355 Committee Guidelines MSC22E – Doc ID 1298908
- Gifts, Bribes & Benefits Policy B15/1 – Doc ID 1370111
- Fraud and Corruption Control Policy MSC18E – Doc ID 1240663
- Council Development Conflict of Interest Management Policy MSC35E – Doc ID 1473179
- Councillor Expenses and Facilities Policy MSC02E – Doc ID 919536

- Internal Reporting – Public Interest Disclosures Policy MSC16E – Doc ID
- Councillor Meetings with Developers and Lobbyists Policy MSC17E – Doc ID 1127313
- Provision of Information to and Interaction Between Councillors and Staff Policy C42/2 – Doc ID 811786
- Procedures for the Administration of the Model Code of Conduct – Doc ID 429616

8.3 Other Supporting Documents

- Acknowledgement of Country Protocol Statement – Doc ID 604351

9. Version History

Version No.	Date changed	Modified by	Amendments made
1	26/05/2020	Council	Adopted by Council 26/5/20, minute number 358
2	21 May 2020	Policy Officer	Amendments to sections 5.7 & 5.16
8	20 May 2022	Manager Governance	<ol style="list-style-type: none"> 1. Multiple minor typographical and grammatical corrections; 2. Update Magiq as Council's electronic record keeping system; 3. Identify the Director Corporate Services and Chief Financial Officer as Council's Public Officer; 4. Update definitions of Fraud and Corruption to align with <i>MSC18E Fraud and Corruption Control Policy</i> 5. Remove mention of Councillor Spokespersons (5.3 A shared model of responsibility); 6. Include report to Council for approval of new and significantly amended policies; 7. Update "token value" as goods and/or services with a value of less than \$100, in alignment with Council's Code of Conduct; 8. Update position title Director Environment and Planning; 9. inclusion of <i>MSC18E Fraud and Corruption Control Policy</i> in associated Council Documentation; 10. Update Document/ Department owner
9	20 April 2023	Business Improvement Officer	<p>Removed policy information that is duplicated in other Governance policies and inserted reference to the separate policy in the sections:</p> <ul style="list-style-type: none"> • Policy Development • Gifts, Bribes & Benefits • Fraud and Corruption • Assessment and and determination of planning applications made by Council, Councillors and Designated Staff Members <p>Inserted references to other Governance policies including:</p> <ul style="list-style-type: none"> • Model Code of Conduct • Model Code of Meeting Practice • Section 355 Committee Guidelines • Councillor Expenses and Facilities Policy • Internal Reporting – Public Interest Disclosures Policy • Councillor Meetings with Developers and Lobbyists • Provision of Information to and Interaction Between Councillors and Staff <p>Updated formatting to match current template Updated Related Documents section</p>