



## ORDINARY COUNCIL MEETING

Wednesday 17 May, 2023

at 9:15am

Council Chambers, 56 Chanter Street, Berrigan



# Under Separate Cover Appendices



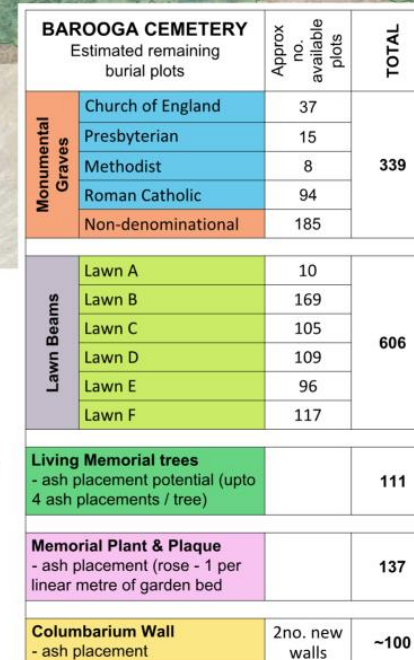


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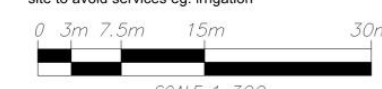


THOMSON HAY  
LANDSCAPE ARCHITECTS

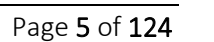
130 HOWARDS RD, WATTLE FLAT VIC 335

Note: Undertake Ground Penetrating Radar (GPR) throughout undeveloped cemetery area to determine location of any unmarked graves before new area of the cemetery are developed.

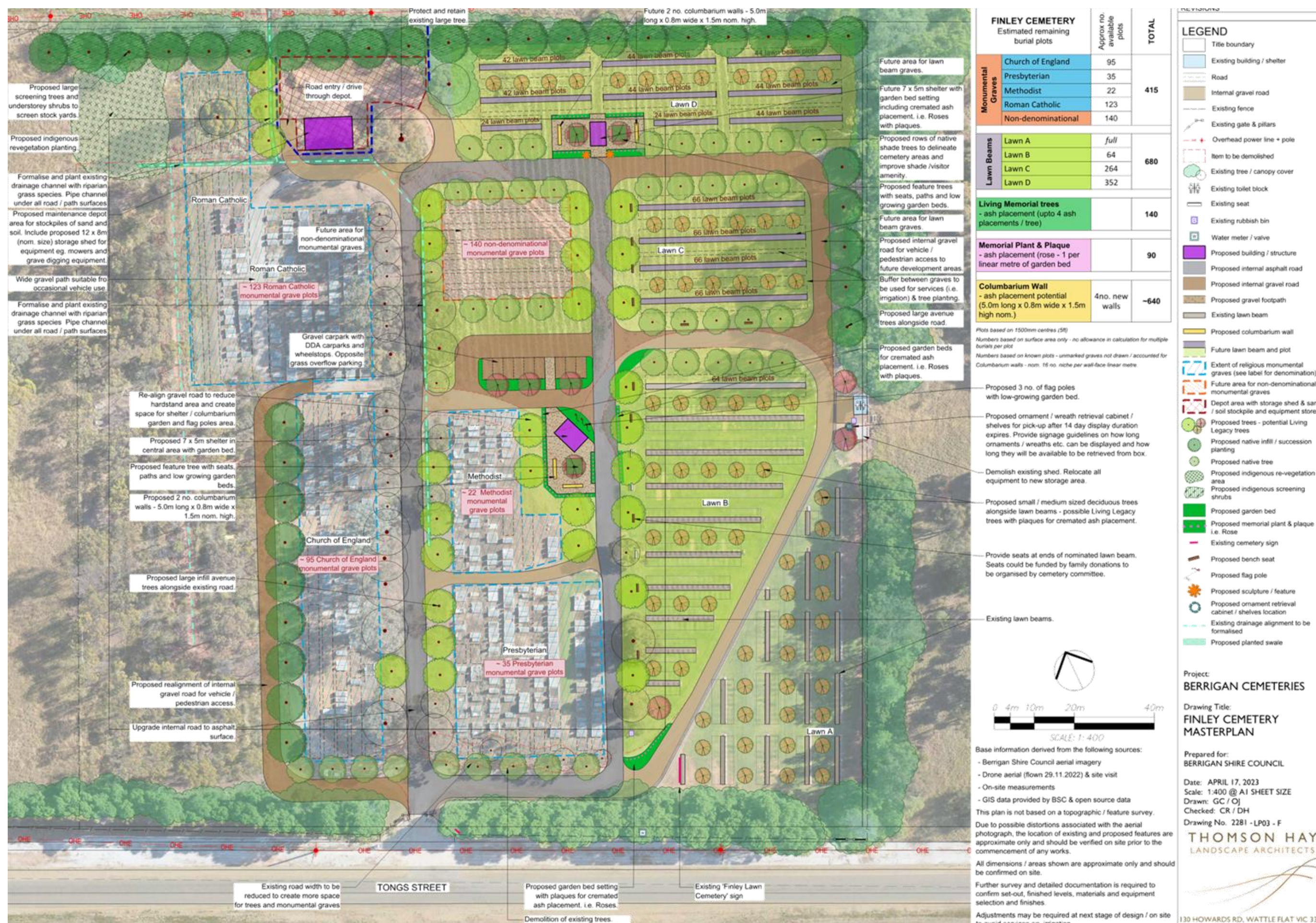
Adjustments may be required at next stage of design / on site to avoid services eg. irrigation













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Cyber Security NSW



## TikTok – NSW Government Guidance

Purpose	This guidance document details the potential risks associated with using the TikTok social media platform for individuals and NSW Government entities. It provides practical advice and best practice recommendations for a range of usage scenarios to help mitigate the identified risks.
Date	4 April 2023
Reference	ISA-MAMGMAR23
Author	Infrastructure Security, Cyber Security NSW
Contact	infrasec@cyber.nsw.gov.au

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### Disclaimer

NSW Government entities should validate findings and conduct their own risk and technical assessments before implementing advice provided in this document. The advice provided is general in nature and may need to be tailored to suit individual circumstances, systems and security requirements.

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## Executive summary

- Increased scrutiny of the popular video sharing platform TikTok has led to numerous international governments enforcing installation restrictions on corporate and personal employee devices.
- TikTok has recently admitted that user data stored in the US and Singapore can be accessed by ByteDance employees in China. The US is also investigating the user data breach and tracking of US-based journalists by ByteDance employees.
- On 4 April 2023, the Commonwealth Attorney-General issued a direction preventing the installation of the application on government-issued devices to ensure security standards within the Federal Government address emerging risks posed by the TikTok application. The primary concern relates to TikTok's extensive data collection practices and the likelihood of this data being shared with the Chinese Government, due to TikTok's ownership by Chinese multi-national ByteDance.
- In line with the Federal Government position, the NSW Government released a Circular on 6 April 2023 that directs clusters and agencies to prevent the installation and remove existing instances of the TikTok application on government-issued devices.
- Using publicly available information as of 4 April 2023, Cyber Security NSW has conducted research into the TikTok platform and identified 3 core security risks: unauthorised access to data; state influence over content; and untrustworthy software and systems.
- Cyber Security NSW has developed high-level guidance about the TikTok application to: improve user security and privacy; provide better protections for corporate data; and mitigate the identified security risks.
- The guidance covers 4 main use cases: corporate devices; bring your own devices (BYODs); legitimate business use; and individual use.

## Background

Government and public concern continue to grow over the privacy and security of users' data by social media and messaging applications. The Australian Cyber Security Centre (ACSC) advises users to be aware that these applications collect extensive data that may go beyond the content of messages, videos and voice recordings.<sup>1</sup>

Increased scrutiny of TikTok as a national security risk has led to numerous countries enforcing restrictions on its installation or an outright ban. On 4 April 2023, the Australian Attorney-General's Department issued a direction that prevents Federal Government entities accessing and installing the TikTok application on government devices to mitigate security and privacy risks.<sup>2</sup>

The concerns relate to TikTok's extensive collection of user data and its connection to parent company ByteDance, a Chinese multinational company based in Beijing. As a China-based business, ByteDance has a legal obligation to adhere to the Chinese Communist Party (CCP) National Intelligence Law 2017, which requires organisations and citizens to 'support, assist and co-operate with the state intelligence work'.<sup>3</sup>

<sup>1</sup> <https://www.cyber.gov.au/acsc/view-all-content/publications/security-tips-social-media-and-messaging-apps>

<sup>2</sup> <https://www.protectivesecurity.gov.au/system/files/2023-04/direction-on-tiktok-application.pdf>

<sup>3</sup> <https://www.afr.com/technology/tiktok-banned-by-25-government-departments-and-agencies-20230303-p5cp4o>

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## National security concerns

Negotiations in the US between TikTok and the Committee on Foreign Investment in the US (CFIUS) have focused on addressing 3 national security risks:<sup>4</sup> unauthorised access to data; state influence over content; and untrustworthy software and systems that could enable intentional or unintentional vulnerabilities.

The concerns are supported by investigations into the application and its parent company ByteDance.

- The US Department of Justice and the FBI are investigating a breach of user privacy of US-based journalists by ByteDance employees who were investigating leaks to the media.<sup>5</sup>
- Whistleblowers claim TikTok will require re-engineering to prevent Chinese employees viewing US data.<sup>6</sup>
- Statements from TikTok employees indicate that engineers in China could access US data between September 2021 and January 2022.<sup>7</sup>
- Following the Russian invasion of Ukraine, TikTok blocked non-Russian content to Russian users.<sup>8</sup>
- Microsoft discovered a high-severity vulnerability in the TikTok Android application that could allow attackers to compromise TikTok servers and user data.<sup>9</sup>

TikTok has openly disputed any nefarious intentions from its Chinese owner ByteDance and has stated it has never been asked to share data with the Chinese Government and would not share it if asked. To date, there is no empirical evidence to indicate coercion by the Chinese Government.

A 2021 comparative technical analysis conducted by CitizenLab between TikTok and Douyin, the Chinese version of TikTok, claimed that TikTok's current program features and code do not pose a threat to national security and did not exhibit malware-like behaviour or code, and there was no overt data transmission to the Chinese Government.<sup>10</sup> This research was referenced and supported by a paper written by the Georgia Institute of Technology as part of the Internet Governance Project, arguing that the data collected by TikTok is similar to its social media rivals and the data can be accessed by anyone using open-source intelligence tools.<sup>11</sup>

## Response from TikTok

To allay national security fears in both the US and Europe, TikTok is proposing major corporate restructures to data security and privacy. The US proposal 'Project Texas' seeks to house all US data in Oracle Cloud Infrastructure in a Virginia data centre with strict protocols around access.<sup>12</sup> Project Clover is the European version, with local data centres in Europe, security gateways to manage data access and control processes, and an independent security company in Europe to audit data controls and practices.<sup>13</sup>

<sup>4</sup> <https://www.lawfareblog.com/project-texas-details-tiktoks-plan-remain-operational-united-states>

<sup>5</sup> <https://techcrunch.com/2023/03/17/the-justice-department-is-investigating-tiktok-over-journalist-spying-incident/>

<sup>6</sup> <https://www.washingtonpost.com/technology/2023/03/10/tiktok-data-whistleblower-congress-investigators/>

<sup>7</sup> <https://www.buzzfeednews.com/article/emilybakerwhite/tiktok-tapes-us-user-data-china-bytedance-access>

<sup>8</sup> <https://www.vice.com/en/article/epx8bw/russia-tiktok-censorship>

<sup>9</sup> <https://www.microsoft.com/en-us/security/blog/2022/08/31/vulnerability-in-tiktok-android-app-could-lead-to-one-click-account-hijacking/>

<sup>10</sup> <https://citizenlab.ca/2021/03/tiktok-vs-douyin-security-privacy-analysis/>

<sup>11</sup> <https://www.internetgovernance.org/wp-content/uploads/TikTok-and-US-national-security-3.pdf>

<sup>12</sup> <https://int.nyt.com/data/documenttools/tik-tok-s-response-to-republican-senators/e5f56d3ef4886b33/full.pdf>

<sup>13</sup> <https://techcrunch.com/2023/03/08/with-project-clover-tiktok-touts-new-eu-data-privacy-and-security-efforts/>

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### TikTok corporate profile

- TikTok Australia is owned by TikTok Ltd, which is registered in the Cayman Islands.
- TikTok Ltd is owned by ByteDance, a Chinese multinational company based in Beijing.
- Douyin is the Chinese version of TikTok, owned by Beijing Douyin Information Service Limited, a separately held subsidiary of ByteDance.<sup>14</sup>
- In April 2021, ByteDance sold 1% in its Chinese subsidiary Beijing ByteDance Technology to WangTouZhongWen (Beijing) Technology, which is owned by 3 Chinese state entities with links to the China Internet Investment Fund (CIIF) and the Cyberspace Administration of China (CAC).<sup>15 16</sup> It is also reported that the deal included a board seat for a Chinese Government official.<sup>17</sup>
- As of January 2023, TikTok had more than 1 billion monthly active users globally.<sup>18</sup>
- In Australia, TikTok had 8.3 million users aged 18 and above as of early 2023, according to ByteDance's advertising resources.<sup>19</sup>

### Commonwealth position

On 4 April 2023, the Australian Attorney-General issued the Protective Security Policy Framework (PSPF) Direction 001-2023,<sup>20</sup> which determined the installation of the TikTok application on federal government devices as a significant protective security risk.<sup>21</sup>

*"Entities must prevent installation and remove existing instances of the TikTok application on government devices, unless a legitimate business reason exists which necessitates the installation or ongoing presence of the application."*

The Commonwealth direction does not impact the use of the TikTok application on personal devices; however, it does extend to the use of personal devices that access official or classified system data such as remote access arrangements (e.g. BYOD policies).

### NSW Government position

On 6 April 2023, the NSW Government followed Commonwealth guidance, releasing a Circular that directed clusters and agencies to prevent the installation and remove existing instances of the TikTok application on government-issued devices. The Circular states that its use is still allowed if there is a legitimate business need, though Chief Information Security Officer (CISO) approval is required and appropriate risk mitigations must be implemented. The Circular outlines other requirements and risk mitigation advice.

<sup>14</sup><https://int.nyt.com/data/documenttools/tik-tok-s-response-to-republican-senators/e5f56d3ef4886b33/full.pdf>

<sup>15</sup> Ibid 11

<sup>16</sup> <https://asia.nikkei.com/Business/Media-Entertainment/Chinese-government-builds-stake-in-unit-of-TikTok-owner-ByteDance>

<sup>17</sup> <https://www.theinformation.com/articles/beijing-tightens-grip-on-bytedance-by-quietly-taking-stake-china-board-seat>

<sup>18</sup> <https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>

<sup>19</sup> <https://datareportal.com/reports/digital-2023-australia>

<sup>20</sup> <https://www.protectivesecurity.gov.au/system/files/2023-04/direction-on-tiktok-application.pdf>

<sup>21</sup> <https://datareportal.com/reports/digital-2023-australia>

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## International developments

- On 30 December 2022, US President Joe Biden approved the No TikTok on Government Devices Act, prohibiting the use of the application on devices owned by the federal government, with some exceptions.
- In February 2023, following a review of TikTok from the Chief Information Officer of Canada, the Canadian Government banned the application on all government-issued devices.<sup>22</sup>
- The European Commission has ordered staff to remove TikTok from corporate devices and any personally owned devices enrolled in the mobile device service that accesses the Commission's apps and email.<sup>23</sup>
- Following a cyber security review into TikTok, the UK announced in March a ban on the installation and removal of TikTok across ministers' and civil servants' corporate devices. The ban did not extend to personal devices.<sup>24</sup>
- In the same week, New Zealand announced a TikTok ban on all devices connected to the parliamentary wireless network.<sup>25</sup>
- The Committee on Foreign Investment in the CFIUS has reportedly told TikTok that it will be subject to a ban in the US if ByteDance does not sell its stake in the US version.<sup>26</sup>

## User and device data collection

The following section identifies the type of data that is collected by the platform. The information is sourced from TikTok's privacy policy and research conducted by Canberra-based cyber security and intelligence firm Internet 2.0 in 2022.

Recent research compared the data collection policies of TikTok and other major platforms.<sup>27</sup> TikTok was called out for not providing clear data retention policies, including in relation to: how long the data is retained upon deletion by the user; users being required to send written requests to access their data; the use of publicly available information online to build a user's profile; and the fact that TikTok had the most network requests on app launch (relates to the volume of data sent from the device to the platform). However, on the amount of data collected, Facebook exceeds the other platforms.

A major concern in the TikTok Privacy Policy is the clause relating to data transmission, access and sharing outside of the US. The policy does not indicate the location of the other servers, data servers or other entities:<sup>28</sup> ***"TikTok may transmit your data to its servers or data centres outside of the US for storage and/or processing. Other entities with whom TikTok may share your data as described herein may be located outside of the US."***

The Privacy Policy also states that aggregation or de-identifying this data is not subject to the policy.

<sup>22</sup> <https://www.canada.ca/en/treasury-board-secretariat/news/2023/02/statement-by-minister-fortier-announcing-a-ban-on-the-use-of-tiktok-on-government-mobile-devices.html>

<sup>23</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_1161](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1161)

<sup>24</sup> <https://www.gov.uk/government/news/tiktok-banned-on-uk-government-devices-as-part-of-wider-app-review>

<sup>25</sup> <https://www.businessinsider.com/every-country-that-banned-tiktok-us-threatens-nationwide-ban-2023-3#united-states-1>

<sup>26</sup> <https://www.axios.com/2023/03/16/us-tells-tiktok-ban-sale-cfius>

<sup>27</sup> <https://cybernews.com/privacy/how-parler-twitter-facebook-mewe-data-policies-compare/>

<sup>28</sup> <https://www.tiktok.com/legal/page/us/privacy-policy/en>

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## TikTok Privacy Policy

The TikTok Privacy Policy is available here: <https://www.tiktok.com/legal/page/us/privacy-policy/en>.

### Information provided by the user to TikTok

Account and profile info	Name, age, username, password, language, email, phone number, social media account information and profile image.
User generated content	Comments, photos, livestreams, audio recordings, videos, text, hashtags and virtual item videos with associated metadata.
Messages	Metadata for composing, sending or receiving messages. Content of messages.
Device clipboard	With permission, share text, images and videos.
Purchase information	Payment card numbers, third-party payment (PayPal), billing and shipping address, transaction and purchase history.
Contacts	With permission, names, phone numbers, email addresses for search against existing users of platform.
Account information	Information to verify proof of identity or age, support correspondence, information shared through surveys, challenges, research, marketing including gender, age, likeness and preferences.

### Information from other sources

Social media	Logins via third party e.g Facebook, Twitter, Instagram, Google and link TikTok account. May collect public profile, email and contact list.
Advertisers	Activities from other websites, apps, products and services purchased online or in person. Mobile identifiers for advertising, hashed email addresses, phone numbers and cookie identifiers.
Publicly available sources	User content, direct messages, complaints, appeals, requests or feedback.

### Automatically collected information

Usage information	Use of platform and any other user content generated or uploaded to platform.
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Device information	IP address, user agent, mobile carrier, time zone settings, advertising identifiers, device model, device system, network type, device IDs, screen resolution, operating system, app and file names and types, keystroke patterns or rhythms, battery state, audio settings, connected audio devices.
Location data	Approximate location, location information based on SIM card and/or IP address. With permission, collect precise location data (GPS).
Image and audio information	Collect data about videos, images and audio of user content, existence and location within an image of face and body features and attributes, objects and scenery, nature of audio, text of words spoken in user content. Biometric identifiers and biometric information as defined under US laws such as faceprints, voiceprints from user content. Where required by law, TikTok seeks permission for this collection.
Metadata	Metadata on user content such as how, when, where and by whom content was created, collected or modified. Enables other users to trace back to user content to user account.
Cookies	TikTok and service providers/business partners use cookies (e.g. web beacons, flash cookies) to automatically collect information, including which pages are viewed, how often, interaction.

## Technical analysis of TikTok by Internet 2.0

In July 2022, Internet 2.0 conducted a technical analysis of TikTok source code using a malware analysis sandbox on Android and iOS to understand user and device data collection.<sup>29</sup> The analysis exposed 'excessive' data collection on the Android application and found many subdomains in the iOS app resolving around the world.

TikTok responded to the report stating that the data collected was in line with other mainstream social media platforms and is willingly provided by the users, and that all data is stored in Singapore with no communication with China. The analysis reveals fundamental misunderstanding of how mobile applications work.<sup>30</sup>

### iOS analysis

Using Metasploit, security trails and sandboxing, Internet 2.0 was able to see IP addresses from iOS app connecting to a Chinese cloud and cyber security company run by Guizhou Baishan Cloud Technology.

<sup>29</sup> <https://internet2-0.com/technical-analysis-of-tiktok-app/>

<sup>30</sup> <https://www.gizmodo.com.au/2022/07/tiktok-app-phone-access/>

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## Android analysis

Internet 2.0 did not find any direct server connections with mainland China on the Android app. However, the analysis showed excessive data collection practices (see below) and harassment of users for access.<sup>31</sup>

Information TikTok can collect from Android devices

### DATA COLLECTION BY THE TIKTOK APP

- **Device mapping** TikTok gathers all apps installed on the phone, and retrieves all other running applications on the phone
- **Location** TikTok checks device location once per hour
- **Calendar** Ongoing access
- **Contacts** If user denies access to contacts, TikTok asks again and again for access until given
- **External storage** App requests external storage, standard with social media to store video, images etc. However, TikTok also retrieves a list of everything available in an external storage folder



### DEVICE DATA TIKTOK CAN GAIN

- Wi-Fi SSID (Wi-Fi network name)
- Past configured Wi-Fi networks
- Device build serial number (unique number assigned by manufacturer to identify individual device)
- SIM serial number (unique identifier specific to SIM card)
- Integrated circuit card identification number (a global unique serial number that is tailored to your SIM card)
- Device ID (most likely the advertising ID)
- Device IMEI (international mobile equipment identity – unique identifier of device)
- Device MAC address (media access control address) – unique identifier assigned to a network interface control
- Device phone number
- Device voicemail number
- GPS status information (updates on the GPS location)
- Active subscription information
- All accounts on the device
- Complete clipboard access (password managers use clipboards)

SOURCE: INTERNET 2.0

## Identification and assessment of risk for NSW Government

In consideration of the security concerns outlined in this Guidance and the Australian Attorney-General's recent direction issued on 4 April 2023, Cyber Security NSW presents 3 risk statements that have the potential to impact NSW government employees who access corporate email and applications on the same device that they access the TikTok platform.

- **Unauthorised access to data:** ByteDance employees gain unauthorised access to NSW Government employees' data, leading to unauthorised tracking and copying of data being shared with the Chinese Government.
- **State influence over content:** ByteDance employees favourably influence the TikTok recommendation algorithm towards China, posting misinformation to NSW Government employees and the public, resulting in reputational damage to Australian and NSW Government organisations.
- **Untrustworthy software and systems:** Cybercriminals exploit vulnerabilities in the TikTok platform and access NSW Government employees' devices or systems, resulting in reputational damage and/or disruption of critical services.

The following section breaks down each of the risks to help NSW Government entities conduct their own risk assessment.

<sup>31</sup> <https://www.afr.com/policy/foreign-affairs/tiktok-s-alarming-excessive-data-collection-revealed-20220714-p5b1mz>

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Cyber Security NSW is not aware of any privacy or security incidents involving the application TikTok.

Unauthorised access to data	
Threat actor	Chinese ByteDance employees
Assets and effect	<ol style="list-style-type: none"> <li>1. Access confidential personal user account or corporate user account data of NSW Government employees stored on TikTok servers relating to device information and application use.</li> <li>2. Provides unauthorised access to NSW Government employee's corporate or personal device and access to corporate systems.</li> </ol>
Method	<ul style="list-style-type: none"> <li>• As a ByteDance employee: gain access to user account data on servers to source data relating to device information, hardware, installed applications, network details and clipboard data.</li> <li>• ByteDance legitimately accesses and shares user data on request of the CCP for intelligence purposes.</li> </ul> <p>Chinese ByteDance employees accessed US journalists' data.<sup>32</sup></p>
TikTok response <sup>33</sup>	<ul style="list-style-type: none"> <li>• Australian user data is stored in Singapore and the US.</li> <li>• Have never provided Australian user data to the Chinese Government and would not provide it if asked.</li> <li>• "Have policies and procedures that limit access to Australian user data by employees, wherever they're based, based on need."</li> <li>• TikTok has an internal data classification system and approval process for US data.</li> <li>• Authorisation approval protocols overseen by US-based security team.</li> </ul>

State influence over content	
Threat actor	CCP and ByteDance employees
Assets and effect	<p>Shape the TikTok algorithm for content censorship, promote targeted content or misinformation and sway political discourse to promote distrust or reputational damage in NSW Government.</p> <p>Impact on:</p> <ul style="list-style-type: none"> <li>• NSW Government employees</li> <li>• NSW Government employees targeted due to Chinese heritage/family/connections</li> <li>• NSW public</li> </ul>
Method	TikTok algorithm could be influenced by the CCP. Under the Internet Information Service Algorithmic Recommendation Management Provisions

<sup>32</sup> <https://www.buzzfeednews.com/article/emilybakerwhite/tiktok-tapes-us-user-data-china-bytedance-access>

<sup>33</sup> <https://twitter.com/SenPaterson/status/1546957121274621952?s=20>

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	<p>introduced in March 2022, companies operating in China deploying recommendation algorithms are to submit algorithm summaries to the Cyberspace Administration of China.<sup>34 35</sup></p> <p><i>In March 2022, Tracking Exposed investigation into TikTok reported content restrictions on non-Russian channels in Russia.<sup>36</sup> Content restriction was applied at the application layer rather than the transport layer, which requires direct involvement by TikTok.</i></p>
TikTok Response <sup>37</sup>	<ul style="list-style-type: none"> <li>• TikTok algorithm is based on the same basic technology utilised by Douyin. However, TikTok's business logic, algorithm, integration and deployment of systems is specific to the TikTok application and separate from Douyin.</li> <li>• ByteDance engineers around the world may assist in developing algorithms Under Project Texas training of the TikTok algorithm will only occur in the Oracle Cloud Infrastructure with appropriate third-party security vetting and validation of the algorithm.</li> <li>• Oracle has commenced vetting of TikTok's algorithm and content moderation model to assure the US platform operates independently from CCP influence.<sup>38</sup></li> </ul>

Untrustworthy software and systems	
Threat actor	Cybercriminals/state actors
Assets and effect	Malicious activities to harvest data of NSW Government employees and gain access to corporate applications and email.
Method	<p>Potential exploitation of multiple vulnerabilities.</p> <p>In 2020, CheckPoint Research discovered multiple Android vulnerabilities that enabled the following:<sup>39</sup></p> <ul style="list-style-type: none"> <li>• SMS link spoofing</li> <li>• open redirection with domain regex bypass</li> <li>• cross-site scripting</li> <li>• cross-site request forgery.</li> </ul> <p><i>In 2022, Microsoft discovered a high-severity vulnerability (CVE-2022-28799) in TikTok Android application that could lead to one-click account hijacking.<sup>40</sup></i></p>
TikTok response	Vulnerabilities were disclosed to TikTok and fixes were released. TikTok has a vulnerability disclosure program with HackerOne. <sup>41</sup>

<sup>34</sup> <https://cyberscoop.com/the-reason-to-ban-tiktok/>

<sup>35</sup> <https://www.lawfareblog.com/dont-assume-chinas-ai-regulations-are-just-power-play>

<sup>36</sup> <https://tracking.exposed/pdf/tiktok-russia-15march2022.pdf>

<sup>37</sup> <https://int.nyt.com/data/documenttools/tik-tok-s-response-to-republican-senators/e5f56d3ef4886b33/full.pdf>

<sup>38</sup> <https://www.axios.com/2022/08/16/oracle-auditing-tiktok-algorithms>

<sup>39</sup> <https://research.checkpoint.com/2020/tik-or-tok-is-tiktok-secure-enough/>

<sup>40</sup> <https://www.microsoft.com/en-us/security/blog/2022/08/31/vulnerability-in-tiktok-android-app-could-lead-to-one-click-account-hijacking/>

<sup>41</sup> <https://support.tiktok.com/en/safety-hc/reporting-security-vulnerabilities/reporting-the-security-vulnerabilities>

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## Best practice advice

Social media has become an integral part of modern communication. Many NSW Government employees leverage TikTok for recreational and corporate purposes. Cyber Security NSW has developed high-level guidance to assist NSW Government entities in complying with the recently released circular [DCS-2023-01 Cyber Security NSW Directive - Protecting NSW Government information on government-issued devices](#), which requires clusters and agencies to:

- prevent the installation and remove existing instances of the TikTok application on government-issued mobile devices, unless there is a legitimate business need (in which case appropriate risk mitigations will need to be implemented).
- ensure a risk management process is in place to identify, assess, approve and manage those cases where there is a legitimate business need for the TikTok application.
- update relevant policies to provide direction on the use of TikTok.

The advice provided aligns with the federal directive issued under the [Protective Security Policy Framework Direction 001-2023](#).

Additional guidance is offered that outlines how to use the TikTok application in a more secure and private manner, relevant to the use case.

Use case	Details
Corporate devices	<p>Corporate devices include any device owned or issued by a NSW Government entity that has access to:</p> <ul style="list-style-type: none"> <li>• NSW Government systems; or</li> <li>• official, sensitive or classified information.</li> </ul> <p>For advice on accessing the TikTok application on a corporate device when there is a legitimate business use, see <a href="#">legitimate business use</a>.</p> <p>Agencies and clusters are directed to prevent the installation and remove existing instances of the TikTok application on government-issued devices.</p> <p>See the <a href="#">corporate device</a> section for further guidance.</p>
BYOD	<p>BYOD includes any device that is <i>not</i> owned or issued by a NSW Government entity that has access to:</p> <ul style="list-style-type: none"> <li>• NSW Government systems; or</li> <li>• official, sensitive, or classified information.</li> </ul> <p>BYOD is often a personal device belonging to an employee that is approved for business use. Agencies that accept the risks of the use of personal devices to access official or classified system data (i.e. pursuant to remote access arrangements including BYOD and equivalent policies) must formally accept the risk of TikTok as part of this position and provide suitable mitigations for identified security risks.</p> <p>Cyber Security NSW recommends that, where feasible, comparable levels of assurance and risk mitigation are applied to BYOD as that of corporate devices.</p>

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	See the <u>BYOD</u> section for more detailed information on available mitigations.
Legitimate business use	<p>There may be circumstances in which NSW Government clusters, agencies or staff require access to the TikTok application for work purposes, e.g. communications, promotions or research. In these cases, an adequate risk assessment must first be completed in consultation with the agency or cluster CISO, and may only proceed with their approval.</p> <p>See the <u>legitimate business use</u> section for further guidance.</p>
Individual use	<p>Assists NSW Government entities advising how to use the TikTok application in a more secure and private manner for NSW Government employees that wish to continue using the platform in a personal capacity.</p> <p>See <u>individual use</u> section for further guidance.</p>

The implementation of controls for all supported TikTok operating systems and environments is out of scope of this document. Reference to supporting material to enable users and administrators to implement controls is provided where appropriate.

## Corporate devices

In order to apply effective controls to prevent the installation and remove existing instances of the TikTok application on government-issued devices, NSW Government clusters and agencies should consider implementing a control set from the list below that suits their requirements.

<b>Blocking access</b>	Application (PCs and laptops)	<p>Corporate managed end-user workstations or laptops can block access to the TikTok application via pre-existing application control solutions.</p> <p>Where an entity does not possess the application control maturity to block applications, robust policy and communication should be implemented that prohibits access to TikTok on corporate devices accessing corporate data.</p> <p>Where there is a legitimate business use for accessing the TikTok application on a corporate device, see: <u>legitimate business use</u>.</p>
	Website and Domain (PCs and laptops)	<p>The DCS Circular does <i>not</i> require clusters and agencies to block access to the TikTok website from corporate devices.</p> <p>The website is reported to harvest less data than the application. There are limited details on specifics and research is ongoing. TikTok uses pixels and trackers for monitoring users while browsing.</p>

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		<p>Where an entity's risk assessment results in a decision to block access, one or more of the following controls can be implemented.</p> <ul style="list-style-type: none"> <li>• DNS blocking: Use Domain Name System (DNS) servers to block access to the website by configuring DNS servers to redirect requests to a "block page".</li> <li>• IP blocking: Organisations can also block access by blocking the IP addresses, which prevents users from accessing the website's servers.</li> <li>• Web filtering: Use web filtering software or appliances to block access to the website. This may involve various techniques such as URL filtering, keyword filtering, and content analysis to identify and block access to the website.</li> <li>• Firewall rules: Create firewall rules to block access to the websites by denying traffic to or from the IP addresses and domains.</li> <li>• Proxy servers: Use proxy servers to block access to the website.</li> </ul> <p>Where an entity's risk assessment allows access to the TikTok website and domain, they should ensure browser privacy and security settings are reviewed and align with best practice.</p>
<b>Removing application</b>	Application (PCs and laptops)	<p>If the TikTok application has been installed on end-user workstations or laptops it can be removed through:</p> <ul style="list-style-type: none"> <li>• group policy;</li> <li>• software deployment tool (SCCM/Intune);</li> <li>• remote admin or endpoint management tools; or</li> <li>• manually/scripting.</li> </ul>
<b>Mobile devices</b>	Website and application	<p>The ability to enforce controls will vary depending on the level of security maturity in an entity and the capability of the software solutions available. The options outlined below will have varying levels of risk and effectiveness.</p> <p>Blocking TikTok application:</p> <ul style="list-style-type: none"> <li>• Use mobile device management (MDM) to create an allow list of applications that are pushed to the device. Disable access to the App Store and the installation of third-party applications.</li> <li>• Certain MDM vendors allow specific applications to be placed on a blocked list, which prohibits the installation of the application</li> <li>• Utilise mobile application management (MAM) or MDM to enforce compliance and conditional access</li> </ul>

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		<p>policies that block access to corporate applications and delete any local data if the TikTok application is installed.</p> <p>Removing the TikTok application:</p> <ul style="list-style-type: none"> <li>• Use MDM solution to uninstall the TikTok application from corporate devices (device, OS, and vendor dependant).</li> <li>• Where no technical controls can be applied to remove the application, issue a directive to staff that TikTok must be deleted.</li> <li>• Utilise management solutions to monitor and ensure users have removed the application.</li> </ul> <p>If an entity chooses to block access to the TikTok website on mobile devices, this can be achieved by:</p> <ul style="list-style-type: none"> <li>• MDM web-content filtering; or</li> <li>• if the mobile device connects via VPN or equivalent into the corporate network, website access can be blocked through the methods outlined <u>previously</u>.</li> </ul>
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### Bring your own devices (BYOD)

The way people work has become increasingly mobile, with a growing number of individuals working from home. We now require access to business systems on a growing number of devices and platforms. As a result, many NSW Government employees access corporate data via mobility BYOD. These devices can include mobiles, tablets and laptops owned by an employee, as control over these devices increases the appetite for users to consume the service and user privacy decreases.

The ACSC assesses the main risks for BYOD to be the likelihood of devices storing unprotected sensitive data being lost or stolen, use of corporately unapproved applications and cloud services to handle sensitive data, inadequate separation between work-related use and personal use of a device, and the organisation having reduced assurance in the integrity and security posture of devices that are not corporately managed. Additional risks arise due to legal liability, regulatory obligations and legislation requiring compliance, and the implications for the entity's budget and personnel resources.

The complete article that outlines risks and benefits, and provides some approaches to mobility BYOD: [Risk Management of Enterprise Mobility Including Bring Your Own Device | Cyber.gov.au](#)

The DCS Circular states agencies that accept the risks of the use of personal devices to access official or classified system data (i.e. pursuant to remote access arrangements including BYOD and equivalent policies) must formally accept the risk of TikTok as part of this position and provide suitable mitigations for identified security risks.

Cyber Security NSW strongly recommends that, where feasible, comparable levels of assurance and risk mitigation are applied to BYOD as that of corporate devices.

Available controls include:

Managed devices	Where BYOD is managed through enrolment to MDM and/or MAM the controls available to agencies align with those listed under <u>corporate mobile devices</u> .
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	Note: While the corporate controls align, some may be considered too invasive for implementation with BYOD. The controls require varying levels of enrolment and device supervision.
Unmanaged devices	Where a device is unmanaged, agencies can provide access through non-persistent and full remote access solutions as opposed to using the native storage and applications on the personal device.  This includes solutions such as Virtual Desktop Infrastructure, utilising providers such as Microsoft, Citrix, VMware etc.

If the risks are accepted without applying technical controls, entities should ensure robust BYOD policies are available and appropriate awareness campaigns are established.

If the risk of BYOD is not accepted and an agency does not possess the technical capability, funding or subject matter expertise to implement appropriate controls, they should consider removing access to corporate applications on non-corporate devices.

## Legitimate business use

This section provides high-level guidance to NSW Government entities using TikTok on corporate devices. Cyber Security NSW recognises that there may be circumstances in which NSW Government clusters, agencies or staff require access to the TikTok application for work purposes, e.g. communications, promotions, research or law enforcement. However, before registering an account for business use, entities should ensure that:

- there is a legitimate reason for the business use;
- a risk assessment is conducted in consultation with the agency or cluster CISO or equivalent and controls are put in place to mitigate any adverse findings;
- approval is granted in accordance with any internal policies;
- there are appropriate and up-to-date internal policies governing use third-party applications; and
- usage complies with any regulatory and legislative requirements specific to the entity.

In addition, agencies should implement the following controls:

Controls	Account setup	
		<p>Create an official generic email address (for example, a group mailbox) for exclusive use of each TikTok account.</p> <p>Use multi-factor authentication and unique passphrases for each TikTok account.</p> <p>Consider applying account settings available under the <u>Individual Use</u> section to improve account security and privacy.</p> <p>Note: These setting may affect account visibility which could limit exposure to NSW citizens.</p>

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		Only install the TikTok application from trusted stores such as Microsoft Store, Google Play Store and the Apple App Store.
	Device	<p>Ensure the TikTok application is installed and accessed only on a separate, physical standalone device without access to services that process or access official and classified information.</p> <p>Use of a web browser to access the TikTok platform is encouraged to reduce the software footprint on the device.</p> <p>The device used must not be connected to the physical network or have any prior history of domain connectivity. Internet access should be provided via a connection that is independent of the corporate network.</p> <p>Ensure the separate, standalone device is appropriately stored and secured when not in use. This includes the isolation of these devices from sensitive conversations and information.</p> <p>Note: The above device controls are recommended by the ACSC for both mobile and desktop devices. Where an agency is considering the use of virtual machines or logical network segmentation, they should contact <a href="mailto:info@cyber.nsw.gov.au">info@cyber.nsw.gov.au</a> for more details.</p> <p>Ensure that devices that access the TikTok application are using the latest available operating system in order to control individual mobile application permissions. Regularly check for and update the application to ensure the latest version is used. When an update is installed confirm that privacy and security settings have not adversely changed.</p>
	Data sharing	<p>All data transfers should be conducted via air-gapped methods.</p> <p>Ensure metadata has been removed from photos, videos and documents when uploading any content to TikTok.</p> <p>Minimise the sharing of personal identifying content on the TikTok application where possible.</p> <p>To maintain confidentiality and integrity, all data being transferred to the device should be vetted and approved in accordance with internal policy.</p>
Awareness	Training	Establish and implement user training and awareness programs that effectively educate users on the associated risks and ensure compliance with internal policies.

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## Individual use

This section provides high-level guidance to individuals using the TikTok application. It is made available to assist entities in providing advice to staff who have security and privacy concerns and wish to continue using the TikTok platform on personal devices.

Changing settings to improve privacy and security may affect a user's visibility on the platform. Accounts that create and share content should take this into account.

<b>Application settings</b>		
Application settings can be accessed within TikTok by selecting "Profile" and clicking the 3 lines at the top right of the screen.		
<b>Security and login</b>	Prior to use	Users should evaluate if they need an account or if browsing in guest mode meets their requirements. Guest mode reduces the amount of data collected by TikTok.
		<p>TikTok collects all details used to register an account and technical and behavioural data while using the platform. This includes information like date of birth, phone number, uploads, IP address, etc. This data may be shared with third parties.</p> <p>Before registering an account, users should be aware of how TikTok <u>collects and uses data</u> and review the privacy policy: <a href="https://www.tiktok.com/legal/page/us/privacy-policy/en">https://www.tiktok.com/legal/page/us/privacy-policy/en</a></p>
	Authentication	<p>A strong unique password should be used for each account. Ensure users follow ACSC password best practice:<sup>42</sup></p> <ul style="list-style-type: none"> <li>• minimum 14 characters long (or 6 with multi-factor authentication)</li> <li>• use a random mix of 4 or more words</li> <li>• do not use popular phrases e.g. famous song lyrics or quotes</li> <li>• follow ACSC principles for creating strong passphrases</li> <li>• enable multi-factor authentication</li> <li>• increase complexity by including special characters and/or numbers.</li> </ul>
		<p>Two-factor authentication (2FA) should be used to add an additional layer of security if the password is compromised. This also protects against third-party applications accessing the account. 2FA options include SMS and email verification. Cyber Security NSW recommends using email as the preferred 2FA method.</p> <p>2FA can be configured in "Settings and privacy" &gt; "Security" &gt; "2-step verification".</p>
	Trusted devices	Users should regularly review "trusted devices" and delete any devices that are not recognised.

<sup>42</sup> <https://www.cyber.gov.au/passphrases>

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		Trusted devices can be found in under “Settings and privacy” > “Security” > “Manage Devices”.
	Security alerts	Users should regularly review security alerts and look for unusual events that seem suspicious.  Security alerts can be found in under “Settings and privacy” > “Security” > “Security Alerts”.
	Manage app permissions	This menu in TikTok shows all the apps that you have given access to your TikTok data. Users should consider removing access to apps that are not required.  Manage app permissions can be found under “Settings and privacy” > “Security” > “Manage app permissions”.
Privacy	Discoverability (optional)	Enable “Private Account” – Only approved users can view and follow the account. This does not affect existing followers.  Security Alerts can be found in under “Settings and privacy” > “Privacy” > “Private Account” toggle.
		Disable the following fields in “suggest your account to others”: <ul style="list-style-type: none"><li>• contacts</li><li>• Facebook friends</li><li>• people with mutual connections</li><li>• people who open or send links.</li></ul> These options are on by default and can be found under “Settings and privacy” > “Privacy” > “Suggest your account to others”.
		Toggle disable on the following fields in “sync contacts and Facebook friends”: <ul style="list-style-type: none"><li>• sync contacts</li><li>• sync Facebook friends.</li></ul> These options can be found under “Settings and privacy” > “Privacy” > “Sync contacts and Facebook friends”.
	Interactions (optional)	Review interaction settings to ensure that they are tailored to the individual.  Interaction settings can be found under “Settings and privacy” > “Privacy”.
	IOS specific	When installing the application select “Ask App Not to Track” activity across other companies’ apps and websites and select “Don’t Allow” TikTok to access your contacts.
	Ads	Disable “Using Off-TikTok activity for ad targeting”.  This setting can be found under “Settings and privacy” > “Ads”.

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General advice	In-app browser	<p>Limit the use of the in-app browser.</p> <p>There have been reports of potential ability to monitor key-strokes due to a third-party software development toolkit used by TikTok for troubleshooting and monitoring.</p> <p>Reference: <a href="https://www.forbes.com/sites/richardnieva/2022/08/18/tiktok-in-app-browser-research/?sh=33ca13ce7c55">https://www.forbes.com/sites/richardnieva/2022/08/18/tiktok-in-app-browser-research/?sh=33ca13ce7c55</a></p>
	Settings	<p>Users should continually monitor in-app popups seeking to override security settings.</p> <p>Application and device settings should be monitored regularly to ensure there has been no changes.</p>
<p><b>Device settings</b></p> <p>Device settings will vary depending on the hardware the TikTok application is installed on. Individual operating system settings are out of the scope of this document. Users should consider if the TikTok application requires access to the following areas; if not, access should be disabled.</p>		
Location services	Disable any settings that allow the application to track your location through GPS, Bluetooth, Wi-Fi hotspot and mobile towers to approximate your location.	
Tracking	Disable the TikTok's ability to track activity across other applications and websites.	
Camera and microphone	If there is no requirement to share content or livestream, users should consider disabling access to the camera and microphone.	
Network access	Disable access to Bluetooth and the local network.	
Contacts	Verify that TikTok access to contacts is disabled on the device.	
Application refresh	Disable features like Background Application Refresh, which allows an application to update its content and refresh feeds when not actively using an application.	
Application and Operating System	Ensure that devices is using the latest available operating system in order to control individual application permissions. Regularly check for and update the application to ensure the latest version is used. When an update is installed confirm that privacy and security settings have not adversely changed.	

## Appendix A – Guidance for Mobile Device Management / Mobile Application Management

### Purpose

The purpose of this guidance is to help NSW Government entities understand how MDM and MAM can be used to protect corporate data in enterprise mobility solutions.

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## What is MDM?

MDM is a software solution that allows mobile devices to be managed within an organisation. When a device is enrolled the organisation has complete control allowing administrators to wipe data, reset to factory settings, push application, restrict applications, enforce policy/compliance and change settings. MDM is usually reserved for corporate devices.

## What is MAM?

MAM is a software solution that allows organisations to manage corporate applications on a mobile device. The device does not need to be enrolled and administrators can apply policy to ensure an organisation's data remains safe or contained in a managed application. Corporate data can also be remotely deleted when necessary. MAM is a popular option for Mobility BYOD.

## Implementation

MDM and MAM can be implemented simultaneously or independently. NSW Government entities should assess which implementation meets the device protection requirements and select the appropriate level of device management for each use case.

## Supporting information

NSW Government entities should read the following articles for further information relating to the risk management and implementation of enterprise mobility device/application management.

- ACSC Guidelines for enterprise mobility (lists Information Security Manual controls that should be applied for varying enterprise mobility scenarios): [Guidelines for Enterprise Mobility | Cyber.gov.au](#)
- ACSC Risk Management of Enterprise Mobility Including Bring Your Own Device (outlines the risks, benefits, and suggests implementation strategies for various enterprise mobility scenarios): [Risk-management-enterprise-mobility-including-bring-your-own-device | Cyber.gov.au](#)
- Microsoft: MAM Overview and implementation and FAQs about MAM and App Protection: [What is app management in Microsoft Intune? | Microsoft Learn](#) and [MAM FAQ | Microsoft.com](#)
- Desktop.gov.au Bring Your Own Device (BYOD) pattern guidance (Digital Transformation Agency protected pattern guidance blueprint for BYOD within an enterprise mobility strategy): [Bring Your Own Device \(BYOD\) \(desktop.gov.au\)](#)
- Desktop.gov.au IOS Blueprint for enrolling IOS devices (Digital Transformation Agency enrolment security for IOS mobile devices): <https://desktop.gov.au/blueprint/client-devices.html#ios>

### Contact us

For more information please contact Cyber Security NSW.

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**Local Government  
Remuneration Tribunal**

# Annual Determination

Report and determination under sections  
239 and 241 of the Local Government Act  
1993

27 April 2023

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# Executive Summary

The *Local Government Act 1993* (the LG Act) requires the Local Government Remuneration Tribunal (the Tribunal) to report to the Minister for Local Government by 1 May each year on its determination of categories of councils and the maximum and minimum amounts of fees to be paid to mayors, councillors, and chairpersons and members of county councils.

## Categories

Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years.

In accordance with the LG Act the Tribunal undertook a review of the categories and allocation of councils into each category as part of this review.

Accordingly, the revised categories of general purposes councils are determined as follows:

Metropolitan	Non-Metropolitan
Principal CBD	Major Regional City
Major CBD	Major Strategic Area
Metropolitan Major	Regional Strategic Area
Metropolitan Large	Regional Centre
Metropolitan Medium	Regional Rural
Metropolitan Small	Rural Large
	Rural



## Fees

The Tribunal determined a 3 per cent per annum increase in the minimum and maximum fees applicable to each category.

For the new categories, the Tribunal has determined fees having regard to the relevant factors and relativities of remuneration ranges for existing categories.

Twenty six (26) councils are recategorised into a higher existing category or placed in a new category.

# Section 1 – Introduction

1. Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every 3 years. The Tribunal last undertook a significant review of the categories and the allocation of councils into each of those categories in 2020.
2. Section 241 of the LG Act provides that the Tribunal determine the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils for each of the categories determined under section 239.
3. Section 242A(1) of the LG Act requires the Tribunal to give effect to the same policies on increases in remuneration as those of the Industrial Relations Commission.
4. The Tribunal can also determine that a council can be placed in another existing or new category with a higher range of fees without breaching the Government's Wages Policy as per section 242A (3) of the LG Act.
5. Natural disasters have a significant impact on the way mayors in particular work. There is an increase on time demands from the community, and media during these events as well as an increase in workloads. Whilst it is worth noting these issues, it is not within the Tribunal's authority to determine additional remuneration in recognition of the increasing demands on a mayor's time for these events.
6. The Tribunal's determination takes effect from 1 July each year.

## Section 2 – 2022 Determination

7. In 2022, the Tribunal received eight (8) submissions, which included five (5) requests for recategorisation. Three of these requests sought the creation of new categories.
8. The Tribunal found that the current categories and allocation of councils to these categories remained appropriate but noted that some councils may have a case for recategorisation at the next major review of categories in 2023.
9. The Tribunal determined that fees would increase 2 per cent in the minimum and maximum fees applicable to each category from 1 July 2022.

# Section 3 – 2023 Review

## 2023 Process

10. The Tribunal's annual review commenced in October when it wrote to all councils inviting submissions regarding fees, categorisation and any other general matters. The invitation noted that it is expected that submissions are endorsed by the respective council.
11. The Tribunal also wrote to the President of Local Government NSW (LGNSW) inviting a submission.
12. The Tribunal received 18 written submissions, of which 15 were from individual councils, 1 submission from LGNSW, 1 from Australian National University academic, Associate Professor Tanya Jakimow, and 1 from the United Services Union (USU).
13. The Tribunal notes that 12 of the 15 council submissions were endorsed by the representative councils.
14. The Tribunal acknowledges and thanks all parties for their submissions.
15. Noting its comments in its reports of 2021 and 2022, the Tribunal met Central NSW Joint Organisation member representatives in Orange, and Far South West Joint Organisation member representatives in Broken Hill. The Tribunal also gave an overview of its work to a meeting of the Country Mayors' Association in Newcastle. While in Broken Hill the Tribunal met with LGNSW representatives.
16. The Tribunal and Assessors met as required to discuss submissions, review category criteria and allocation of councils



## Categories

17. Section 239 of the LG Act requires the Tribunal to determine the categories of councils and mayoral offices at least once every three years. The Tribunal last reviewed the categories in 2020.
18. In determining categories, the Tribunal is required to have regard to the following matters that are prescribed in Section 240 of the LG Act:
- *the size of areas;*
  - *the physical terrain of areas;*
  - *the population of areas and the distribution of the population;*
  - *the nature and volume of business dealt with by each council;*
  - *the nature and extent of the development of areas;*
  - *the diversity of communities served;*
  - *the regional, national and international significance of the council;*
  - *such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective local government; and*
  - *such other matters as may be prescribed by the regulations.*
19. The 2020 Determination established the following categories:

Metropolitan	Non-Metropolitan
Principal CBD	Major Regional City
Major CBD	Major Strategic Area
Metropolitan Large	Regional Strategic Area
Metropolitan Medium	Regional Centre

Metropolitan Small      Regional Rural

Rural

20. For its 2023 review, the Tribunal undertook an extensive examination of the categories, criteria and allocation of councils into each of the categories.
21. The Tribunal examined statistical and demographical data, with population data sourced from Australian Bureau of Statistics (ABS) 2021 Census (the latest available data).
22. Having regard to section 239 of the LG Act, information examined and provided through submissions, the Tribunal has determined the categories of general purpose councils as follows:

Metropolitan	Non-Metropolitan
Principal CBD	Major Regional City
Major CBD	Major Strategic Area
Metropolitan Major	Regional Strategic Area
Metropolitan Large	Regional Centre
Metropolitan Medium	Regional Rural
Metropolitan Small	Rural Large
	Rural

23. In reviewing the current model, the Tribunal sought to improve consistency of criteria.
24. In examining the criteria for each of the categories, the Tribunal is of the view that non-resident population criteria should also be included for consistency in the following categories:

- Major Strategic Area
  - Regional Strategic Area
  - Regional Centre
  - Regional Rural
25. Three (3) councils will be reclassified as a result of meeting criteria thresholds into an existing category.
26. The Tribunal has determined the creation of two (2) new categories, being Metropolitan Major and Rural Large.
27. In determining the 2 new categories the Tribunal gave significant consideration to section 239 of the LG Act, statistical data, the existing categories and relativities between each category.
28. It was determined that the existing Rural category did not differentiate between large and small rural councils, in population, size, and terrain. Evidence demonstrated that a number of Rural councils are large in geographic area, requiring great distances to be covered. The Tribunal also examined a range of data that it believes goes to the delivery of efficient and effective local government.
29. Hence a new category Rural Large is created. The determination is amended to reflect the new category and criteria that includes a population greater than ten thousand, and a councillor to resident ratio of 1 to 1200. The Tribunal notes there are a number of Rural councils on the cusp of this new category.
30. The revised category also shows more clearly the differences for large rural and remote councils. It is becoming apparent these councils require

different considerations regarding the role Mayors and Councillors in servicing the community across such large distances.

31. Evidence reviewed established the need to differentiate between some Large Metropolitan councils. Comparison data reviewed included population, operating revenue, and submission evidence relevant to section 239 of the LG Act. This examination further exposed the gap between Metropolitan Large and Major CBD categories, thus resulting in the Tribunal establishing a new category to bridge the gap.
32. The determination is amended to reflect a new category, Metropolitan Major, with a population criteria threshold of 400,000 (including non-resident).
33. Accordingly, the Tribunal has identified a number of councils that will be recategorised into these new categories.
34. Given the relativities in population threshold criteria, the Tribunal is of the view that the population criteria for Regional Strategic Area be adjusted from 200,00 down to 100,000.
35. As a result, three (3) councils will be reclassified as Regional Strategic.
36. Whilst the Tribunal did explore additional criteria points that may go to efficient and effective local government, within the bounds of statutory provisions no further changes to the criteria could be determined in this review.
37. The category County Councils remain unchanged, retaining the categories of Water and Other.



38. **Appendix 1 Criteria that apply to categories** has been amended to reflect changes outlined above.

## Submissions Received – Categorisation

39. Nine (9) submissions received from councils requested recategorisation and five (5) of these requested the creation of new categories.
40. A summary of matters raised in submissions and the Tribunal's consideration of those matters is outlined below

## Request for New Categories

41. Requests were received for the creation of new categories namely, Metropolitan Large Growth Area, Metropolitan Major, Metropolitan Medium Growth and Regional Growth.
42. Blacktown City Council again requested the creation of a new category, Metropolitan Large - Growth Area. Council stated its current categorisation in Metropolitan Large "*does not reflect the complexities of servicing their rapid rate of growth and economic influence*".
43. Blacktown City Council contends that a new category would allow a criteria to be set that reflects:
- Size
  - Rate of growth
  - Economic influence
  - Operational budget

- Complexities of remaining financially sustainable whilst maintaining services and providing new infrastructure
44. Penrith Council reiterated previous submissions, again requesting the creation of a new category, Metropolitan Large Growth Centre. Council argues they are unique compared to other similar sized councils, providing significant regional services to Greater Western Sydney.
45. Penrith Council contends its claim for creation and inclusion in a new category is enhanced through their leading role in the region demonstrating the exponential growth that will occur in the Penrith Local Government area. Council submits they are playing a leading role in several significant city-shaping projects and initiatives such as:
- Western Sydney Airport
  - Western Sydney Priority Growth Area
  - Penrith Health and Education Precinct
  - The Greater Sydney Commission District planning process
  - National Growth Areas Alliance
  - Sydney Science Park
  - Defence Industries Precinct and
  - South Creek Corridor
46. While the Tribunal understands that areas of Western Sydney are developing rapidly, not least with the new airport and associated infrastructure it is not persuaded to create a new category, Metropolitan Large - Growth Area/Centre. These councils are experiencing growth and will in the future have populations of residents and non-residents that meet the thresholds for recategorisation. It is not within the Tribunal's legislative



remit to anticipate growth. However as dealt with earlier in this determination, the Tribunal acknowledges the need for a new Metropolitan category to reflect increasing population and bridge gap between current categories, Metropolitan Large and Major CBD.

47. Canterbury Bankstown Council proposed the creation of a new category, Metropolitan Major, that would sit in between current category of Metropolitan Large and Major CBD.
48. Council based its argument for a new category on the following grounds:
  - Categories need to have consistent criteria
  - A new category of Metropolitan Major would capture increased population and workloads post amalgamation process
  - New criteria should be based on population size and councillor to resident ratio
  - Councils size, with a current population of 372,322 across five wards
  - Population and distribution of population
  - Councils' area and physical terrain
  - Diversity of communities served
  - Nature and volume of business dealt with by Council
49. Council proposed a new criteria could include population threshold and councillor to resident ratio, with thresholds being 350,000 and 1 to 24,000.
50. The Tribunal considered the suggested criteria of a councillor to resident ratio for all categories. Whilst the Tribunal has included this criteria for

Rural Large category, it has not included it for all categories. It may warrant further consideration for other categories in future reviews.

51. The Tribunal is persuaded to include a new category, Metropolitan Major, with a population criteria threshold of 400,000 in the determination.
52. Camden Council's submission requests the creation of a growth category for Metropolitan Medium councils. They argue the proposed new category would allow criteria to be established to better reflect their growth rate, economic influence and complexities involved in servicing growth.
53. Council proposes the new category be called Metropolitan Medium – Growth Area. Council submits that its inclusion into this new category is based on the following:
  - Population growth
  - Development corridors
  - Growing assets and major infrastructure
  - Major services and institutions
54. The Tribunal has already determined a new metropolitan category, taking into account population and relatives in population between existing categories. It is not persuaded to include another new metropolitan category.
55. Maitland City Council requested the creation of a new category, Regional Growth Area to bridge the gap between Regional Centre and Regional Strategic.
56. Council based its argument for a new category on the following grounds:



- Maitland is the fastest growing regional city in NSW
- significant role in accommodation growth
- Council being an emerging health centre, with the \$470 million investment in the new Maitland Hospital
- Significant role in delivery of state goals, including Greater Newcastle Metropolitan Plan 2036 and a state partner in infrastructure delivery including roads and facilities

57. Council also contends the current categorisation model for non-metropolitan is inadequate. It argues that the application of the population criteria is flawed as increments initially rise by 20,000 before leaping up by 160,000.

58. The current population criteria thresholds for non-metropolitan councils are outlined in the table below:

Category	Population Criteria
Rural	<20,000
Regional Rural	>20,000
Regional Centre	>40,000
Regional Strategic Area	>200,000
Major Strategic Area	>300,000

59. The Tribunal has considered the issues raised in Council's submission but is not persuaded for reasons noted earlier for anticipation of growth versus actual population, to create a new category, Regional Growth Area.

60. The Tribunal acknowledges the point made in Council's submission regarding incremental increases for non-metropolitan categories population criteria.
61. As outlined earlier the Tribunal has determined to change the population criteria for Regional Strategic from 200,000 to 100,000. This will result in Maitland Council being reclassified.

## Requests for Recategorisation

62. The Tribunal received four (4) requests for recategorisation. Liverpool, Byron, Tweed and Burwood Councils put forward individual cases for recategorisation for the Tribunal's consideration.
63. A summary of council's requests and the Tribunal's findings are outlined in the paragraphs below.
64. Liverpool Council requested to be reclassified from their current classification of Metro Large to Major CBD category. Liverpool Council's case to be included in Major CBD category is based on the following grounds:
- Population forecast to grow by 59.23% in the next 20 years from 242,817 to 386,646
  - A GDP estimated at \$13.03 billion, with 91,000 jobs in the LGA
  - Significant development in the LGA that includes new council offices and chambers, new city library, childcare facility, and the \$106 million Liverpool Quarter development consisting of retail, commercial, food and beverage spaces

- Liverpool being an integral part of Western Sydney Deal to deliver transformative change
- Liverpool being home to several significant infrastructure projects, including Western Sydney Airport, Western Sydney Infrastructure plan, Holsworthy Barracks and Liverpool Hospital upgrades
- Diversity of population

65. The Tribunal notes that the current criteria for Major CBD remains unchanged. It includes being a major provider of business and government services, and secondary CBD to metropolitan Sydney.
66. Having regard to section 239 of the LG Act, the criteria, the submission put forward, and for reasons outlined earlier in regard to anticipated growth versus actual growth, the Tribunal is not persuaded to include Liverpool Council in Major CBD category.
67. Byron Shire Council requested to be reclassified from their current category of Regional Rural into Regional Centre.
68. Council noted, based on ABS 2021 census data, with a population of 36,077, it is on the cusp of reaching the population threshold of 40,000 residents.
69. Council believes they meet several other additional criteria that supports their case for reclassification. Council's request is based on the following grounds:
- Non-resident population of 4,817 travel from surrounding locations to work in the LGA



- A population growth increase of 7.2% over the last 5 years, which is above the state increase of 5.3%
- Proximity to Gold Coast and Ballina/Byron airports
- Byron being home to internationally renowned Hinterland region
- Byron being home to a large number of festivals and events

70. As outlined earlier in this determination, the criteria for Regional Centre has been amended to include non-resident population as a criteria point.
71. This result is Byron Shire Council will be reclassified to Regional Centre.
72. Tweed Shire Council once again requested reclassification from Regional Centre to Regional Strategic Area on the following grounds:
- Proximity to Sydney via Gold Coast airport
  - Proximity to Brisbane and Gold Coast
  - Tweed being a major city centre and population centre for Northern Rivers Joint Organisation
  - Tweed being the largest employer and strongest growth area in the Northern Rivers
  - The construction of new state of the art Tweed Valley Hospital due to open in late 2023
73. Tweed Shire Council will be reclassified as a result of changes to Regional Strategic Area criteria outlined earlier in this determination.
74. Burwood Council requested to be reclassified from their current classification of Metropolitan Small to Metropolitan Medium. Council acknowledged that they do not currently meet the population criteria to be

placed into the requested category. The criteria as outlined in the 2022 Determination, Appendix 1 of the criteria that apply to categories states

“Councils categorised as Metropolitan Medium will typically have a minimum residential population of 100,000.”

75. If Burwood Council's non-resident working population was included, the total population would be 53,435 well short of exceeding the population threshold for Metropolitan Medium.
76. Further examination demonstrates that Burwood council does not meet the broader criteria for Metropolitan Medium. Accordingly, Burwood Council will remain in current classification of Metropolitan Small.
77. The matters raised generally in submissions of Berrigan, Cowra, Inner West, Kur-ring-gai, Singleton and Temora Councils are outside of the scope of the Tribunal statutory functions, but in the view of the Tribunal are worthy of further consideration. These matters relate to the current remuneration principles and structures that apply to mayors and councillors in NSW and the potential impacts of these constraints. These are discussed further below.

## Section 4 – 2023 Fees

78. In determining the maximum and minimum fees payable in each of the categories, the Tribunal is required by section 242A of the LG Act, to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* (IR Act), when making or varying awards or orders relating to the conditions of employment of public sector employees.
79. Pursuant to section 146C (1) (a) of the IR Act, the current government policy on wages is expressed in the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014 (IR Regulation). The IR Regulation provides that public sector wages cannot increase by more than 3 per cent per annum and the tribunal therefore has the discretion to determine an increase of up to 3 per cent per annum.
80. Four (4) submissions received addressed the issue of the fees quantum increase. These submissions sought an increase of 2.5% or greater.
81. The LGNSW submission requested that the Tribunal increase fees by the maximum 3 per cent, but further argued that the maximum increase is *"inadequate and does not address the historic undervaluation of work performed by elected representatives and the substantial responsibility associated with local government."*
82. LGNSW used economic and wage data to support their argument, that included:
- Consumer Price Index (CPI)
  - National and State Wage cases
  - Market comparability



83. LGNSW in their meeting with The Tribunal and Assessors, further emphasised that remuneration for Councillors and Mayors has been reduced in real terms due to impacts of inflation and capping of remuneration increases.
84. The Tribunal received a late submission from the USU, advocating for the maximum increase to be applied. The USU argued that all work carried out in local government needed to be fairly remunerated and reflect the rise in cost of living.
85. Whilst only five of the eighteen submissions received addressed the issue of quantum increase of fees, more than half of the submissions provided commentary on a range of remuneration issues.
86. Submissions suggested that the current remuneration structure is inadequate and requires further review. It has been suggested that the current remuneration structure does not adequately reflect:
- Role, responsibilities, and commitment required to perform functions successfully
  - Workloads
  - Complexity of role
  - Commitment and skills required
  - Fairness
87. Furthermore, it has been suggested that the low level of remuneration is a barrier to encouraging participation and diversity of candidates that reflects communities.

88. Associate Professor Jakimow of the Australian National University provided a detailed submission outlining the negative impacts of inadequate remuneration. The substance of the submission is that current remuneration levels do not adequately reflect the hours and complexity of work. Furthermore, low remuneration is a barrier to participation and diversity.
89. Associate Professor Jakimow argues that:
- "inadequate pay has significant negative consequences: low quality local democracy, an unacceptable burden on councillors and their families, and poor councillor diversity."*
90. A number of submissions provided comparison data to demonstrate that the current remuneration principles and structure are not reflective of time, skills and competencies required to effectively perform the roles of councillor and mayor.
91. Comparisons were made to State and Federal parliamentary members, councillors and mayors in the Queensland and Victorian local government jurisdictions, average remuneration of a chairperson of a board, not for profit organisations and national minimum wage. The basis of the argument is that NSW mayor and councillors are paid below these organisations.
92. One submission noted that legislative change would be required to change remuneration model.
93. The Tribunal acknowledges issues raised in submissions regarding remuneration principles, structure and potential impacts. Many of these issues are worth serious consideration, they are however not currently

within the Tribunal's remit. The Tribunal concludes these matters should be given further investigation and consideration.

94. The Tribunal has considered key economic indicators, including the Consumer Price Index and Wage Price Index, and has determined that the full 3 per cent increase will apply to the minimum and maximum fees applicable to existing categories.
95. As an initial determination, the ranges for new categories are not subject to the wages policy. Future increases in those categories, as is the case for existing categories, will be subject to wages policy in accordance with section 242A(4) of the LG Act.
96. The minimum and maximum fees for the new categories have been determined having regard to the relativities of existing categories

## Time for Fresh Thinking

97. Submissions made to the 2023 review and the Tribunal's own conclusions from evidence it has examined, suggest that there are significant issues underlying the concerns raised about mayor and councillor remuneration. It is apparent to the Tribunal that those issues which include a lack of diversity in representation, changing nature of work required to be undertaken and changing community expectations cannot be easily resolved under the existing framework. In the Tribunal's view, there would be merit in a comprehensive review of the framework for mayor and councillor remuneration.
98. The criteria under which the Tribunal makes these determinations has



been in existence since 1994 and at that time NSW had 177 Councils. Much has changed over the past 30 years, but the criteria has not.

99. As noted earlier in this determination the Tribunal and Assessors met with two Joint Organisation member representatives. While much of what was discussed has been dealt with in this determination it is worthy for the record to restate the view of LGNSW of the *“need for major reform”*.
100. Key themes and issues raised during discussions by mayors, councillors and general managers with the Tribunal and Assessors include:
- Changes to ways of working including expectations of increased use of social media and online platforms (“always on” expectations from constituents)
  - Impacts of future development
  - Impact of changes to legislation and regulation on workload
  - Serving constituents in regional centres, country areas regional areas, rural and remote areas
  - Remuneration principles
  - Natural Disasters including floods, fires, mice, locusts and tragedies generally
  - Confusion in roles and responsibilities – need for compulsory and consistent training of candidates prior to election and induction of those elected

- Popularly elected mayors and two-year mayoral terms and the role of the Deputy Mayor when a mayor is absent, as distinct from temporarily unavailable
- Questioning whether the guidelines by the Office of Local Government for the payment of expenses and the provision of facilities for mayors and councillors that were issued in 2009 are still fit for purpose. There appears to be significant variation in the interpretation of the guidelines and subsequent council policies
- The optional payment of superannuation being used for political purposes
- Paid parental leave for councillors
- Is remuneration holding back quality candidates or are behavioural issues – both in and out of meeting environment
- Parity in the payment differential in existing categories between councillors and mayors
- A possible alignment in categories of councillor to resident and ratepayer ratios and rateable property ratios
- Clarity in the payment of fees for chairpersons and voting members of Joint Organisations for additional workloads

101. Diversity was a strong theme heard by the Tribunal, both diversity of communities served and diversity of representation. We heard that

younger people, women, Aboriginal and Torres Strait Islander people and members of culturally and linguistically diverse communities among others, are underrepresented in many councils.

102. The Tribunal acknowledges that it is not within its authority to address many of the issues that were raised in submissions.

103. The Tribunal is not suggesting a fundamental review of the role of councillors and notes that people enter local government representation from a sense of civic service rather than for remuneration.

## Conclusion

104. The Tribunal is of the view that a broader consideration is required of the matters raised in this determination. If the Minister decided to refer these matters under section 238 (2) of the LG Act the Tribunal would be willing to assist noting that it would require considerable consultation with the sector and access to suitable resources from Government.

105. The Tribunal's determinations have been made with the assistance of the Assessors Ms Kylie Yates, Gail Connolly PSM (in her role as Acting Deputy Secretary) and Mr Brett Whitworth.

106. It is the requirement of the Tribunal that in the future all submissions have council endorsement.

107. Determination 1 outlines the allocation of councils into each of the categories as per section 239 of the LG Act.

108. Determination 2 outlines the maximum and minimum fees paid to



councillors and mayors and members and chairpersons of county councils  
as per section 241 of the LG Act.

109. The Tribunal acknowledges and thanks the secretariat for their excellent  
research and support in completing the 2023 determination.

A handwritten signature in black ink, appearing to be "Viv May".

Viv May PSM

**Local Government Remuneration Tribunal**

Dated 27 April 2023

# Section 5 – Determinations

Determination No. 1 – Allocation of councils into each of the categories as per section 239 of the LG Act effective 1 July 2023

## General Purpose Councils – Metropolitan

### Principal CBD (1)

- Sydney

### Major CBD (1)

- Parramatta

### Metropolitan Major (2)

- Blacktown
- Canterbury-Bankstown

### Metropolitan Large (10)

- Bayside
- Cumberland
- Fairfield
- Inner West
- Liverpool
- Northern Beaches
- Penrith
- Ryde
- Sutherland
- The Hills

### Metropolitan Medium (8)

- Campbelltown
- Camden
- Georges River
- Hornsby
- Ku-ring-gai
- North Sydney
- Randwick
- Willoughby

### Metropolitan Small (8)

- Burwood
- Canada Bay
- Hunters Hill
- Lane Cove
- Mosman
- Strathfield
- Waverley
- Woollahra

## General Purpose Councils - Non-Metropolitan

### Major Regional City (2)

- Newcastle
- Wollongong

### Major Strategic Area (1)

- Central Coast

### Regional Centre (23)

- Albury
- Armidale
- Ballina
- Bathurst
- Blue Mountains
- Byron
- Cessnock
- Clarence Valley
- Coffs Harbour
- Dubbo
- Eurobodella
- Hawkesbury

### Regional Strategic Area(4)

- Lake Macquarie
- Maitland
- Shoalhaven
- Tweed
- Lismore
- Mid-Coast
- Orange
- Port Macquarie-Hastings
- Port Stephens
- Queanbeyan-Palerang
- Shellharbour
- Tamworth
- Wagga Wagga
- Wingecarribee
- Wollondilly



### Regional Rural (12)

- Bega
- Broken Hill
- Goulburn Mulwaree
- Griffith
- Kempsey
- Kiama
- Lithgow
- Mid-Western
- Nambucca
- Richmond Valleys
- Singleton
- Snowy Monaro

### Rural Large (18)

- Bellingen
- Cabonne
- Cootamundra-Gundagai
- Cowra
- Federation
- Greater Hume
- Gunnedah
- Hilltops
- Inverell
- Leeton
- Moree Plains
- Murray River
- Muswellbrook
- Narrabri
- Parkes
- Snowy Valleys
- Upper Hunter
- Yass

### Rural (38)

- Balranald
- Berrigan
- Bland
- Blayney
- Bogan
- Bourke
- Brewarrina
- Carrathool
- Central Darling
- Cobar
- Coolamon
- Coonamble
- Dungog
- Edward River
- Forbes
- Gilgandra

- Glen Innes Severn
- Gwydir
- Hay
- Junee
- Kyogle
- Lachlan
- Liverpool Plains
- Lockhart
- Murrumbidgee
- Narrandera
- Narromine
- Oberon
- Temora
- Tenterfield
- Upper Lachlan
- Uralla
- Walcha
- Walgett
- Warren
- Warrumbungle
- Weddin
- Wentworth

## County Councils

### Water (4)

- Central Tablelands
- Goldenfields Water
- Riverina Water
- Rous

### Other (6)

- Castlereagh-Macquarie
- Central Murray
- Hawkesbury River
- New England Tablelands
- Upper Hunter
- Upper Macquarie

## Determination No. 2 - Fees for Councillors and Mayors as per section 241 of the LG Act effective from 1 July 2023

The annual fees to be paid in each of the categories to Councillors, Mayors, Members and Chairpersons of County Councils effective on and from 1 July 2023 as per section 241 of the *Local Government Act 1993* are determined as follows:

### Table 4: Fees for General Purpose and County Councils

#### General Purpose Councils – Metropolitan

##### Councillor/Member Annual Fee (\$) effective 1 July 2023

Category	Minimum	Maximum
Principal CBD	29,610	43,440
Major CBD	19,760	36,590
Metropolitan Major	19,760	34,590
Metropolitan Large	19,760	32,590
Metropolitan Medium	14,810	27,650
Metropolitan Small	9,850	21,730

##### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2023

Category	Minimum	Maximum
Principal CBD	181,210	238,450
Major CBD	41,960	118,210
Metropolitan Major	41,960	106,960
Metropolitan Large	41,960	94,950
Metropolitan Medium	31,470	73,440
Metropolitan Small	20,980	47,390



## General Purpose Councils - Non-Metropolitan

### Councillor/Member Annual Fee (\$) effective 1 July 2023

Category	Minimum	Maximum
Major Regional City	19,760	34,330
Major Strategic Area	19,760	34,330
Regional Strategic Area	19,760	32,590
Regional Centre	14,810	26,070
Regional Rural	9,850	21,730
Rural Large	9,850	17,680
Rural	9,850	13,030

### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2023

Category	Minimum	Maximum
Major Regional City	41,960	106,960
Major Strategic Area	41,960	106,960
Regional Strategic Area	41,960	94,950
Regional Centre	30,820	64,390
Regional Rural	20,980	47,420
Rural Large	15,735	37,925
Rural	10,490	28,430

## County Councils

### Councillor/Member Annual Fee (\$) effective 1 July 2023

Category	Minimum	Maximum
Water	1,960	10,870
Other	1,960	6,490

### Mayor/Chairperson Additional Fee\* (\$) effective 1 July 2023

Category	Minimum	Maximum
Water	4,200	17,850
Other	4,200	11,860

\*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2))

A handwritten signature in black ink.

Viv May PSM

**Local Government Remuneration Tribunal**

Dated 27 April 2023

# Appendices

## Appendix 1 Criteria that apply to categories

### Principal CBD

The Council of the City of Sydney (the City of Sydney) is the principal central business district (CBD) in the Sydney Metropolitan area. The City of Sydney is home to Sydney's primary commercial office district with the largest concentration of businesses and retailers in Sydney. The City of Sydney's sphere of economic influence is the greatest of any local government area in Australia.

The CBD is also host to some of the city's most significant transport infrastructure including Central Station, Circular Quay and International Overseas Passenger Terminal. Sydney is recognised globally with its iconic harbour setting and the City of Sydney is host to the city's historical, cultural and ceremonial precincts. The City of Sydney attracts significant visitor numbers and is home to 60 per cent of metropolitan Sydney's hotels.

The role of Lord Mayor of the City of Sydney has significant prominence reflecting the CBD's importance as home to the country's major business centres and public facilities of state and national importance. The Lord Mayor's responsibilities in developing and maintaining relationships with stakeholders, including other councils, state and federal governments, community and business groups, and the media are considered greater than other mayoral roles in NSW.



## Major CBD

The Council of the City of Parramatta (City of Parramatta) is the economic capital of Greater Western Sydney and the geographic and demographic centre of Greater Sydney. Parramatta is the second largest economy in NSW (after Sydney CBD) and the sixth largest in Australia.

As a secondary CBD to metropolitan Sydney the Parramatta local government area is a major provider of business and government services with a significant number of organisations relocating their head offices to Parramatta. Public administration and safety have been a growth sector for Parramatta as the State Government has promoted a policy of moving government agencies westward to support economic development beyond the Sydney CBD.

The City of Parramatta provides a broad range of regional services across the Sydney Metropolitan area with a significant transport hub and hospital and educational facilities. The City of Parramatta is home to the Westmead Health and Medical Research precinct which represents the largest concentration of hospital and health services in Australia, servicing Western Sydney and providing other specialised services for the rest of NSW.

The City of Parramatta is also home to a significant number of cultural and sporting facilities (including Sydney Olympic Park) which draw significant domestic and international visitors to the region.

## Metropolitan Major

Councils categorised Metropolitan Major will typically have a minimum residential population of 400,000.

Councils may also be categorised Metropolitan Major if their residential population combined with their non-resident working population exceeds 400,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$300M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Major will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.

## Metropolitan Large

Councils categorised as Metropolitan Large will typically have a minimum residential population of 200,000.

Councils may also be categorised as Metropolitan Large if their residential population combined with their non-resident working population exceeds 200,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$200M per annum
- the provision of significant regional services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- significant industrial, commercial and residential centres and development corridors
- high population growth.

Councils categorised as Metropolitan Large will have a sphere of economic influence and provide regional services considered to be greater than those of other metropolitan councils.



## Metropolitan Medium

Councils categorised as Metropolitan Medium will typically have a minimum residential population of 100,000.

Councils may also be categorised as Metropolitan Medium if their residential population combined with their non-resident working population exceeds 100,000. To satisfy this criteria the non-resident working population must exceed 50,000.

Other features may include:

- total operating revenue exceeding \$100M per annum
- services to greater Sydney including, but not limited to, major education, health, retail, sports, other recreation and cultural facilities
- industrial, commercial and residential centres and development corridors
- high population growth.

The sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Large councils.

## **Metropolitan Small**

Councils categorised as Metropolitan Small will typically have a residential population less than 100,000.

Other features which distinguish them from other metropolitan councils include:

- total operating revenue less than \$150M per annum.

While these councils may include some of the facilities and characteristics of both Metropolitan Large and Metropolitan Medium councils the overall sphere of economic influence, the scale of council operations and the extent of regional servicing would be below that of Metropolitan Medium councils.

## **Major Regional City**

Newcastle City Council and Wollongong City Councils are categorised as Major Regional City. These councils:

- are metropolitan in nature with major residential, commercial and industrial areas
- typically host government departments, major tertiary education and health facilities and incorporate high density commercial and residential development

- provide a full range of higher order services and activities along with arts, culture, recreation, sporting and entertainment facilities to service the wider community and broader region
- have significant transport and freight infrastructure servicing international markets, the capital city and regional areas
- have significant natural and man-made assets to support diverse economic activity, trade and future investment
- typically contain ventures which have a broader State and national focus which impact upon the operations of the council.

### **Major Strategic Area**

Councils categorised as Major Strategic Area will have a minimum population of 300,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum

- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Central Coast Council meets the criteria to be categorised as a Major Strategic Area. Its population, predicted population growth, and scale of the Council's operations warrant that it be differentiated from other non-metropolitan councils. Central Coast Council is also a significant contributor to the regional economy associated with proximity to and connections with Sydney and the Hunter Region.

### **Regional Strategic Area**

Councils categorised as Regional Strategic Area are differentiated from councils in the Regional Centre category on the basis of their significant population and will typically have a residential population above 100,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$250M per annum



- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Currently, only Lake Macquarie Council meets the criteria to be categorised as a Regional Strategic Area. Its population and overall scale of council operations will be greater than Regional Centre councils.

### **Regional Centre**

Councils categorised as Regional Centre will typically have a minimum residential population of 40,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- a large city or town providing a significant proportion of the region's housing and employment
- health services, tertiary education services and major regional airports which service the surrounding and wider regional community
- a full range of high-order services including business, office and retail uses with arts, culture, recreation and entertainment centres
- total operating revenue exceeding \$100M per annum
- the highest rates of population growth in regional NSW

- significant visitor numbers to established tourism ventures and major events that attract state and national attention
- a proximity to Sydney which generates economic opportunities.

Councils in the category of Regional Centre are often considered the geographic centre of the region providing services to their immediate and wider catchment communities.

### **Regional Rural**

Councils categorised as Regional Rural will typically have a minimum residential population of 20,000. To satisfy this criteria the non-resident working population can be included.

Other features may include:

- a large urban population existing alongside a traditional farming sector, and are surrounded by smaller towns and villages
- health services, tertiary education services and regional airports which service a regional community
- a broad range of industries including agricultural, educational, health, professional, government and retail services
- large visitor numbers to established tourism ventures and events.

Councils in the category of Regional Rural provide a degree of regional servicing below that of a Regional Centre.

### **Rural Large**

Councils categorised as Rural Large will have a residential population greater than 10,000, and a councillor to resident ratio of at least 1 to 1200.

Other features may include:

- one or two significant townships combined with a considerable dispersed population spread over a large area and a long distance from a major regional centre
- a limited range of services, facilities and employment opportunities compared to Regional Rural councils
- local economies based on agricultural/resource industries.

## **Rural**

Councils categorised as Rural will typically have a residential population less than 10,000.

## **County Councils - Water**

County councils that provide water and/or sewerage functions with a joint approach in planning and installing large water reticulation and sewerage systems.

## **County Councils - Other**

County councils that administer, control and eradicate declared noxious weeds as a specified Local Control Authority under the Biosecurity Act 2015.



## Local Government Remuneration Tribunal 2023 Review

### Berrigan Shire Council Response



## Introduction

The Berrigan Shire Local Government Area – (LGA) (pop 8,655), located on the border of NSW and Victoria, is a rural and unmerged LGA comprising the four towns of Finley, Berrigan, Tocumwal and Barooga. With a land area of 2,066 square kilometres, Berrigan Shire is the most densely populated LGA in rural NSW (at 4.2 people per square kilometre). The Shire is bordered by the Murray River and bushlands in the south and includes dry and irrigated farmland.

The work of our Councillors involves them keeping a firm eye on the Shire and its needs, while having a deep understanding of the broader region. This submission considers the work of Councillors and the important value they add to our Council and community. The intention is to quantify the value of the work of Councillors and Mayors across other jurisdictions and to attempt to define not only the quality and quantum of the work Councillors and the Mayor do for this Shire, but to ask that the system for remuneration be reconsidered to ensure more appropriate compensation is paid in the future.

## Considerations

Council have considered several matters in developing this submission and each will be discussed below. The areas considered are;

- the value of our Councillors
- time required to undertake the roles of Councillor, Deputy Mayor and Mayor; and
- benchmarking against other comparable jurisdictions

### The Value of our Councillors

The allowance currently provided to Councillors and Mayors, particularly in rural and remote communities, suggests their value is commensurate to unqualified, inexperienced personnel. This devalues the importance and responsibility of the positions they hold and the work they undertake on behalf of our community. Whilst it is understood the allowances have been kept low with reference to populations and rate bases, thereby reducing the financial burden to Councils and ratepayers, the system of remuneration needs a full review.

Berrigan Shire Council has highly qualified individuals in its elected body. There are three farmers running multi-million-dollar enterprises and working with exporters and wholesalers for their produce, a barrister, a solicitor, a probity and governance expert and those working in the teaching profession and other professional industries supporting farming enterprises.

These people are highly skilled and are giving up other income to represent their communities. This fact should be considered as part of a full review of the remuneration system for Councillors and Mayors.

The fact Councils operate in an increasingly complex environment means Councillors must understand their roles and responsibilities as effective board members such as understanding financial reporting and governance. In addition to this already complex environment, they

must lead the community in considering the impacts of complex matters as land use planning, strategic planning, climate change, the housing crises, pandemic management, infrastructure life cycle, digital connectivity, diminishing banking services and health delivery models.

### Time Requirements

Berrigan Shire Councillors were surveyed about the time it takes them to undertake their job; one they all take very seriously. Results of that survey align directly with the time requirements already presented by the Victorian Independent Remuneration Tribunal's 2022 report *Allowance payable to Mayors, Deputy Mayors and Councillors (Victoria) Determination No. 01/2022*.

Table 3.1 of that report below effectively outlines the minimum time requirement of a Councillor to undertake their duties effectively.

Table 3.1: Average weekly time commitment for a Councillor, VLGA

Activity	Time commitment per week
Council meetings and committees	4 hours
Reading	4 hours
Reviewing/replying to correspondence	4 hours
Meeting with residents and community groups	2 hours
Community events	2 hours
Council events	2 hours
Networking and professional development	2 hours
Council briefings	1 hour
Meeting with state and federal Members of Parliament	1 hour
Social media	1 hour
Total	23 hours

Source: Data provided to the Tribunal by VLGA in 2021.

The above is presented as a week's commitment and it is understood that Councillors, depending on their engagement levels with the community will generally spend between 10 and 20 hours per week attending to their role as a Councillor. The time investment is clearly commensurate with that of a permanent part time employee (at a minimum).

The above table does not include hours worked by Mayors and Deputy Mayors over and above those of ordinary Councillors.

When assessed as above, the time commitment of the Berrigan Shire Mayor and Deputy Mayor is outlined below, presented as weekly averages:

Activity	Mayor	Deputy Mayor
Council meetings	3	3
Reading	6	5
Committee meetings	2	2
Regional meetings and preparations	6	3
Correspondence management	5	4
Meetings with residents and community groups	3	3
Attending community events	4	3
Attending Council events	4	3
Networking and professional development	3	3
Meetings / discussions with Federal / State Ministers	4	4
Media interviews	2	1
Meetings / discussions / briefings with CEO	4	3
Social media	2	2
Total	48hrs	39hrs

**Table 1 – Deputy Mayor and Mayor hours of engagement**

Clearly, the above represents a position commensurate with full time employment for Mayors and Deputy Mayors, especially when compared against the Local Government (State) Award which allows for the standard hours of work for “indoor” employees to be 35 hrs per week.

All formal and informal meetings and briefings of Council are held during working hours, including planning dates. Scheduling time in this way allows paid employees to not have to work overtime however the truth is it cuts deeply into the available hours Councillors and Mayors are able to actively engage with their normal paid employment, often meaning they are forced to leave without pay. The only meetings that are generally out of hours as those that encompass community engagement, events and celebrations. That is then more hours Councillors are not able to be with their families and friends, and certainly they do not receive remuneration for this time.

To understand the inadequacy of the value placed on the work of Councillors, Berrigan Shire Council has considered the average hours worked against the remuneration and reduced the outcomes to an hourly rate.



Position	Annual Wage	Average Hours	Hourly Rate
Mayor	\$27,600	48	\$12.16
Deputy Mayor	\$12,650	39	\$6.86
Councillors	\$12,650	23	\$11.63

**Table 2 – Hourly rates for Councillors based on current allowances.**

These rates are below the national minimum wage of \$21.38 per hour.

Considering the professional nature of the work required of Councillors, Deputy Mayors and Mayors, the remuneration allowed by the NSW Remuneration System is clearly inadequate to attract and retain Council members.

### Benchmarking

Consideration has therefore turned to our nearest neighbours of Queensland, and Victoria. Both jurisdictions treat their Councillors differently with Queensland considering and employing Councillors as full-time employees, and Victoria treating Councillors similarly to NSW in that they are paid a base rate, plus committee attendance fees, travel etc.

For the purposes of comparison, Berrigan Shire Council has been determined to be included in the Rural Council Category for NSW government remuneration purposes. To ensure comparisons are equivalent, the categories compared are:

- Queensland – Category 1
- Victoria – Category 1

To enable comparisons to be made, the positions of Mayor, Deputy Mayor and Councillor are considered separately. The hours of work discussed above are included as an average against all positions of Council to allow for direct comparison

Role	Annual Fee		Total	Average hours per year	Hourly Rate
<b>NSW</b>					
Super					
Mayor	\$27,600	\$2,760	\$30,360	2,496	\$12.16
Deputy Mayor	\$12,650	\$1,265	\$13,915	2,028	\$6.86
Councillor	\$12,650	\$1,265	\$13,915	1,196	\$11.63
<b>Queensland*</b>					
Meeting Fees					
Mayor	\$110,386		\$110,386	2,496	\$44.22
Deputy Mayor	\$63,684		\$63,684	2,028	\$31.40
Councillors **	\$36,794	\$18,397	\$55,192	1,196	\$46.15
<b>Victoria</b>					
Super					
Mayor	\$76,781	\$7,678	\$84,459	2,496	\$33.84
Deputy Mayor	\$38,391	\$3,839	\$42,230	2,028	\$20.82
Councillors	\$24,775	\$2,478	\$27,253	1,196	\$22.79

**Table 3 – Jurisdiction Comparison Rates**

\* Queensland Councillors are not paid superannuation as at 2021

\*\* Queensland, Category 1 Councillors are paid a base payment of \$36,794.67 per annum. A meeting fee of \$1,533.11 per month (or fortnightly equivalent) is payable for attendance at, and participation in, scheduled meetings of council subject to certification by the mayor and / or chief executive officer of the council. Mayors and deputy mayors receive the full annual remuneration shown. In this case it has been assumed the Councillors have attended all meetings for the calendar year.

It is also important to note that Councils have been forced to implement Audit Risk and Improvement Committees (ARIC). Whilst Berrigan Shire Council supports the importance of this committee, it must be noted these committee members are paid more than Councillors and they sit an average a third of the time (i.e. four meetings per year). Councillors who sit on this committee however are not entitled to payment at all which is further evidence of the lack of value placed on the contribution our Councillors make to this community.

Given the ARIC members do not have a community role, Council have estimated time spent reading committee papers to be 6 hours for the Chair and 4 for Committee members, and the time spent at actual meetings to be 2 hours. The amounts were then multiplied by four to allow for the average of four meetings per year allocated.

Role	Annual Fee	Addition meeting fees	Average hours per year	Hourly Rate
Chair	\$12,552	\$1,793	32	\$392.25
Committee Member	\$7,530	\$1,255	24	\$313.74

**Table 4 – ARIC Payments**

Berrigan Shire Council cannot support the difference in the value placed on the ARIC as opposed to their roles of Councillor which require considerably more work and are far more accountable directly to the community.

## Recommendations

Given the high value and nature of the work Mayors, Deputy Mayors and Councillors undertake on behalf of their communities, Berrigan Shire Council strongly believes the current remuneration system needs to be overhauled.

From the above it is evident the role of Mayor and Deputy Mayor should be remunerated in a fashion that is commensurate with full time positions. The roles of Councillors may in rural communities such as ours, remain part time positions. All should be paid commensurate to the work that is required.

Berrigan Shire Council would like to advocate that for those serving in rural councils at least, the wage for each position should be changed to reflect the below:

Position	Hourly Rate	Annual Salary	Superannuation*	Total
Mayor	\$40.00	\$99,840	\$10,483	\$110,323
Deputy Mayor	\$35.00	\$70,980	\$7,453	\$78,433
Councillors	\$25.00	\$29,900	\$3,140	\$33,040

**Table 4 – Suggested remuneration for all Councillor positions**

\*Super should be fixed to the Superannuation guarantee and for the purposes of this submission has been worked out at 10.5%

It is understood the above would require the NSW Government to consider remunerating Councillors in a completely different way. Remuneration commensurate with the skills and requirements of Councillors, Mayors and Deputy Mayors, will ensure Councils are able to attract and retain suitable candidates; a fact the community values. Changing the remuneration model means these roles will be seen as professional, rather than “voluntary”. It will also provide tangible accountability to the community as Councillors will no longer need to have their attention split to ensure they are able to pay their bills as they will be remunerated according to the value they provide to the community through their range of skills and abilities.

Berrigan Shire has considered only rural councils in this submission and understands, moving to this model will require application across the spectrum of Councils, requiring the Remuneration Tribunal to reconsider categories and payments for a fully reviewed and more modern system.

Berrigan Shire Council is prepared to assist in the consideration, development and delivery of a new and revised system under which Councillors, Mayors and Deputy Mayors all receive the remuneration commensurate with the skill sets required and which reflects the commitment to the role being undertaken.

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## Council Meeting Calendar 2023 – 2024

Month / Date	Meeting Type	Items for Consideration
10 May 2023	Email documents for Comment	<p>Draft Resourcing Strategy 2023-2024 (including):</p> <ul style="list-style-type: none"> <li>• Long Term Financial Plan – 2023 – 2033</li> <li>• Workforce Development Plan 2023 – 2027</li> <li>• Asset Management Strategy 2023 – 2033</li> </ul> <p>Draft Delivery Program 2023-2027 (with community feedback)  Draft Annual Operational Plan 2023-2024 (including annual operating budget)  Draft Rating and Revenue Policy 2023-2024 (with community feedback)  Draft Fees and Charges 2023-2024 (with community feedback)</p>
17 May 2023	Ordinary	<p>March Quarter Review and Delivery Program Progress Report  Financial Review January to March 2023  Update of Council Calendar  Emergency Services Levy  Social Media Policy  CEO Performance Review Planning</p>
24 May 2023	Extra Ordinary Council Meeting	<p>Endorsement of Draft Resourcing Strategy 2023-2024</p> <ul style="list-style-type: none"> <li>• Long Term Financial Plan – 2023 – 2033</li> <li>• Workforce Development Plan 2023 – 2027</li> <li>• Asset Management Strategy 2023 – 2033</li> </ul> <p>Endorsement of Delivery Program 2023-2027  Endorsement of Draft Annual Operational Plan 2023-2024 (including annual operating budget)</p>

Month / Date	Meeting Type	Items for Consideration
		Endorsement of Rating and Revenue Policy 2023-2024 Endorsement of Fees and Charges 2023-2024 <i>For public exhibition</i>
22 May 2023	ARIC Meeting	Draft Budget / Operational Plan Management Plan – QBRS Capital Works Progress Report Instrument of Delegations Compliance / Non-compliance Report Risk Registers Review insurance program prior to renewals Final annual / internal audit plans Final Internal Audit Plans Internal Audit Report Update External Audit Strategy ARIC Chair Report to Council ARIC Terms of Reference - Draft Review of Outstanding action items Recommendations from external sources such as ICAC, OLG, AO etc
7 June 2023	Strategic Planning Workshop	Tree Management Policy Cemetery Service Review and Recommendations Review of LEP – Draft Mapping Urban Areas

Month / Date	Meeting Type	Items for Consideration
21 June 2023	Ordinary	<p>HR Scan Summary</p> <p>Mayoral and Councillor Allowances</p> <p>Carry forwards to 2023-2024 financial year</p> <p>Adoption of FINAL Resourcing Strategy 2023-2024 (including:</p> <ul style="list-style-type: none"> <li>• Long Term Financial Plan – 2023 – 2033</li> <li>• Workforce Development Plan 2023 – 2027</li> <li>• Asset Management Strategy 2023 – 2033</li> </ul> <p>Adoption of FINAL Annual Operational Plan 2023-2024 (including annual operating budget)</p> <p>Making and levying of rates and charges</p>
28 June 2023?	Extra Ordinary Meeting to adopt	<p>Draft Resourcing Strategy 2023-2024 (including):</p> <ul style="list-style-type: none"> <li>• Long Term Financial Plan – 2023 – 2033</li> <li>• Workforce Development Plan 2023 – 2027</li> <li>• Asset Management Strategy 2023 – 2033</li> </ul> <p>Draft Delivery Program 2023-2027 (with community feedback)</p> <p>Draft Annual Operational Plan 2023-2024 (including annual operating budget)</p> <p>Draft Rating and Revenue Policy 2023-2024 (with community feedback)</p> <p>Draft Fees and Charges 2023-2024 (with community feedback)</p>
5 July 2023	Strategic Planning Workshop	<p>CEO Performance Review discussion</p> <p>Community Strategic Plan Engagement Strategy</p>
19 July 2023	Ordinary	<p>CEO Performance Review</p> <p>Sign and Seal Rates and Charges</p> <p>Revotes</p> <p>CRM Quarterly Reporting</p>

Month / Date	Meeting Type	Items for Consideration
2 August 2023	Strategic Planning Workshop	Council self review of performance
16 August 2023	Ordinary	End Year Review and Delivery Program Progress Report
24 August 2023	ARIC Meeting	Management Plans – QBRs Capital Works Progress Report Update on status of annual Revaluations Compliance / Non Compliance Report Business Continuity Test Results Risk Register Internal Audit Report Update External Audit Interim Management Letter ARIC Terms of Reference Review outstanding action items Recommendations from external sources (ICAC, OLG, AO etc)
6 September 2023	Strategic Planning Workshop	HR Scan
20 September 2023	Special	Election of Mayor and Deputy Mayor
20 September 2023	Ordinary	HR Scan Summary
4 October 2023	Strategic Planning Workshop	CEO Performance Plan Update
5 October 2023	Corporate Workshop	Annual Strategic Plan Aerodrome Strategic Plan Resource Recovery Strategy
6 October 2023	Corporate Workshop	Community Strategic Plan Draft Financial Statements



Month / Date	Meeting Type	Items for Consideration
17 October 2023	ARIC	Draft Annual financial statements Management Plans – QBRS Capital Works Progress Report Compliance / Non Compliance Report Risk Register Intern Audit Report update External Audit Final Management Letter and Closing Report ARIC Self-evaluation / assessment survey Review outstanding items Recommendations from external sources (ICAC, OLG, AO etc)
18 October 2023	Ordinary	Corporate Workshop Outcomes Financial Statement Christmas Closure CRM Quarterly Reporting
24 October 2023	ARIC Meeting (TBC)	
1 November 2023	Strategic Planning Workshop	Annual Report Draft
15 November 2023	Ordinary	Annual Report including financial statements Investment Policy Review Agency Information Guide Review
13 December 2023	Ordinary	Council Calendar Update for 2024 HR Scan Review Community Strategic Plan Draft for Public Exhibition CEO Mid Year Performance Review

Month / Date	Meeting Type	Items for Consideration
		Councillor Professional Development Plans Report
<b>2024 Calendar Year</b>		
January 2024	Ordinary	Advocacy Document Review Councillor Professional Development Plans for 2024 Calendar Year
February 2024	Strategic Planning Workshop	Draft Annual Capital Works Program National General Assembly Motions Councillor Talking Posts Mid Year Budget Review Discussion
February 2024	Ordinary	Community Strategic Plan endorsement CRM Quarterly Reporting Adoption of Draft Annual Capital Works Program Mid Year Budget Review December Quarter Review and Delivery Program Progress Report
March 2024	Strategic Planning Workshop	Resourcing Strategy (Long Term Financial Plan, Workforce Plan and Asset Management Strategy) – alignment to new CSP Draft Delivery Program 2024-2028 discussion HR Scan
March 2024	Ordinary	Draft Delivery Program 2023-2027 for initial comment HR Scan Summary Resourcing Strategy Endorsement
April 2024	Strategic Planning Workshop	Adoption of Draft Rating and Revenue Policy 2023-2024 Adoption of Draft Fees and Charges

April 2024	Ordinary	Delivery Program Endorsement CRM Quarterly Reporting Adoption of Draft Rating and Revenue Policy 2023-2024 Adoption of Draft Fees and Charges
May 2024	Strategic Planning Workshop	Operational Plan (new format – integrated with DP and CSP)
May 2024	Ordinary	Operational Plan for Public Exhibition including Resource Strategy and DP Council Calendar Update CEO Performance Review Planning
June 2024	Strategic Planning Workshop	
June 2024	Ordinary	Adopt new suite of plans CEO Performance Review
June 2024	ELT Workshop	Financial Year Planning
June 2024	Managers Workshop	Financial Year Planning
July 2024	Strategic Planning Workshop	
July 2024	Ordinary	CEO Performance Review Sign and Seal Rates and Charges Revotes
August	Strategic Planning Workshop	
August	Ordinary	End Year Review and Delivery Program Progress Report
September	Strategic Planning Workshop	Local Government Election
September	Ordinary	Local Government Election Election of Mayor and Deputy Mayor

		HR Scan Summary
October	Corporate Workshop	
October	Corporate Workshop	
October	Strategic Planning Workshop	Draft Financial Statements
October	Ordinary	CEO Performance Plan Update Christmas Closure
November	Strategic Planning Workshop	Annual Report Draft
November	Ordinary	Annual Report including financial statements Investment Policy Review Agency Information Guide Review



# Guidelines for the Appointment and Oversight of General Managers

2022



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## INTRODUCTION

The *Local Government Act 1993* (the Act) requires councils to appoint a person to be the council's general manager (section 334).

One of the prescribed functions of the governing body of a council is to determine the process for the appointment of the general manager and to monitor their performance (section 223).

These Guidelines have been developed to assist councillors when performing their functions under the Act relating to the appointment of general managers and overseeing their performance. They provide guidance on:

- the role of the general manager and the importance of a good working relationship between councillors and the general manager
- the recruitment process and the appointment of a general manager
- day to day oversight of and liaison with the general manager
- the performance review process
- separation, and
- renewal of the general manager's contract.

These Guidelines are issued under section 23A of the Act and must be taken into consideration by councils when exercising their functions in relation to the recruitment and oversight of general managers. They should be read in conjunction with the relevant provisions of the Act and the *Local Government (General) Regulation 2021* (the Regulation) and the standard contract of employment for general managers approved by the Departmental Chief Executive of the Office of Local Government under section 338 of the Act (the approved standard contract).



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## ROLE OF THE GENERAL MANAGER

Councillors comprise the governing body of a council and make decisions by passing resolutions. It is the general manager's role to implement the lawful decisions of the council and to carry out the functions conferred on them by the Act and Regulation and other legislation.

General managers also perform other functions delegated to them by the governing body.

The governing body monitors the implementation of its decisions through the general manager's reports to council meetings.

### Key functions of the general manager

The Act confers certain functions on general managers of councils (section 335). Key aspects of the general manager's role are set out below:

#### Management of the council

The general manager is responsible for conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies approved by the governing body of the council and implementing without undue delay, lawful decisions of the governing body.

#### Assisting the governing body to set the strategic direction

The general manager also plays a key role in assisting the governing body to develop the council's strategic direction. The general manager is responsible for guiding the preparation of the community strategic plan and the council's response to it via the delivery program and operational plans. The general manager is also responsible for implementing the delivery program and operational plans and reports to the governing body on their

implementation. More information on this is available on the Office of Local Government's [website](#).

#### Determining the organisation structure

The general manager is responsible for determining the organisation structure of the council (other than senior staff positions) following consultation with the governing body and in accordance with the budget approved by the governing body (section 332). The positions within the organisation structure of the council must be determined to give effect to the priorities set out in the council's strategic plans, including the community strategic plan and delivery program.

#### Appointment and direction of staff

The general manager is responsible for the appointment and direction of staff and their dismissal. The general manager must consult with the governing body before appointing or dismissing senior staff.

#### Supporting councillors

The general manager is also responsible for ensuring councillors are provided with the information and the advice they require to make informed decisions and to carry out their civic duties.

The general manager should ensure that council meeting business papers contain sufficient information to allow councillors to make informed decisions and to allow them to effectively monitor and review the council's operations and performance. This will assist councils in ensuring they are complying with statutory requirements, keeping within the budget approved by the council, and achieving the strategic goals set by the council in its delivery program and operational Plan.

The governing body may direct the general manager to provide councillors with advice but

cannot direct them as to the content of that advice.

Requests by councillors for assistance or information outside of meetings should be made to the general manager unless the general manager has authorised another staff member to receive such requests. The *Model Code of Conduct for Local Councils in NSW* contemplates that councils should adopt a policy to provide guidance on interactions between councillors and staff. The policy should be agreed to by both the governing body and the general manager. To assist councils, the Office of Local Government has prepared a model councillor and staff interaction policy which reflects best practice. This is available on the Office of Local Government's [website](#).

## The delegation of functions to the general manager

A governing body may delegate certain functions of the council to the general manager but cannot delegate the functions set out in section 377(1) of the Act. The delegation of a council's functions must be made by resolution and be evidenced in writing. Delegations must be reviewed during the first 12 months of each term of the council (section 380).

The general manager may sub-delegate a function delegated to them by the governing body (section 378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

## The importance of a good working relationship with the general manager

The position of general manager is pivotal in a council. It is the interface between the governing body which sets the strategic

direction of the council and monitors its performance, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body. A good working relationship between the general manager and the councillors is therefore critical for good governance and a well-functioning council. Where this relationship breaks down, this can quickly lead to dysfunction.

The Centre for Local Government at the University of Technology in Sydney has identified the following as key components of a good working relationship between councillors and the general manager:

- mutual trust and respect
- councillors publicly supporting the work of the general manager
- councillors dealing with any performance concerns through appropriate channels e.g., not the media or council meetings
- councillors not getting involved in the day-to-day operational matters of the council (which makes it difficult for the general manager to do their job)
- councillors having a clear understanding of how and when to approach the general manager or other staff for information or support and following agreed protocols
- regular meetings between the general manager, mayor and councillors to ask questions and share information and advice
- respect of confidentiality, and
- any conflict is dealt with professionally and quickly and where it can't be addressed informally, proper processes are followed.

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## RECRUITMENT AND SELECTION

### Requirements of the *Local Government Act 1993*

One of the prescribed functions of the governing body of a council is to determine the process for the appointment of the general manager (section 223).

When recruiting a new general manager, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position (section 348).

As with the appointment of all council staff, councils must ensure that the appointment of the general manager is made using merit selection principles (section 349). Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the role is appointed. Equal employment opportunity principles also apply to the recruitment of general managers (sections 349 and 344).

The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act, the council's code of conduct and the *Privacy and Personal Information Protection Act 1998*.

Councils should engage an external recruitment consultant to assist them with the recruitment process and that person should have a role in verifying that proper processes and procedures are followed in the appointment of the general manager.

There are a range of possible approaches to undertaking the recruitment of the general manager. The guidance contained in these Guidelines reflects what the Office of Local Government considers to be best practice.

### The pre-interview phase

As noted above, the council's governing body is responsible for determining the process for recruiting the general manager.

The governing body should delegate the task of recruitment to a selection panel led by the mayor and approve the recruitment process. The panel will report back to the governing body on the process and recommend the most meritorious applicant for appointment by the council.

The selection panel should consist of at least the mayor, the deputy mayor, another councillor and a suitably qualified person independent of the council. Where practicable, the selection panel membership should remain the same throughout the entire recruitment process.

Selection panels should, where possible, have a mix of genders.

The council's governing body should delegate to one person (generally the mayor) the task of ensuring:

- the selection panel is established
- the general manager's position description is current and evaluated in terms of salary to reflect the responsibilities of the position
- the proposed salary range reflects the responsibilities and duties of the position
- the position is advertised according to the requirements of the Act
- information packages are prepared, and
- applicants selected for interview are notified.

The mayor, or another person independent of council staff, should be the contact person for the position and should maintain confidentiality with respect to contact by potential applicants.



## Interview phase

Interviews should be held as soon as possible after candidates are short listed.

Questions should be designed to reflect the selection criteria for the position and assist the selection panel to assess the suitability of the candidate for the position.

Interviews should be kept confidential.

All written references must be checked. The selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.

If contact with someone other than a nominated referee is required, the applicant's permission must be sought.

At least 2 referees must be contacted and asked questions about the candidate relevant to the selection criteria.

Where tertiary qualifications are relied on, they should be produced for inspection and if necessary, for verification.

Appropriate background checks must be undertaken, for example, bankruptcy and criminal records checks and whether the candidate has been disqualified from managing a corporation by the Australian Securities and Investments Commission. For guidance on better practice recruitment background checks, see the Australian Standard AS 4811:2022 [Workforce Screening](#) and the Independent Commission Against Corruption's publication, *Strengthening employment screening practices in the NSW public sector* which is available on its [website](#).

## Selection panel report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process

- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of the council.

The appointment of a general manager is a non-delegable function of the council under section 377 of the Act and a general manager cannot be appointed without a formal resolution of the council.

The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before the position is offered to the candidate.

## Finalising the appointment

The mayor makes the offer of employment after the governing body has resolved to appoint the successful candidate. The initial offer can be made by telephone.

Conditions such as term of the contract (1-5 years) and remuneration package (within the range approved by the governing body of the council) can be discussed by telephone but must be confirmed in writing.

The standard contract of employment for general managers approved by the Departmental Chief Executive of the Office of Local Government under section 338 of the Act must be used. The approved standard contract is available on the Office's [website](#). The terms of the approved standard contract must not be varied. Only the term of the contract and the schedules to the approved standard contract can be adapted by councils.

General managers must be employed for 1-5 years.



The contract governs:

- the duties and functions of general managers
- performance agreements
- the process for renewal of employment contracts
- termination of employment and termination payments
- salary increases, and
- leave entitlements.

It should be noted that the Departmental Chief Executive of the Office of Local Government cannot approve individual variations to the standard terms of the contract.

Candidates who are placed on the eligibility list and unsuccessful applicants should be advised of the outcome of the recruitment process before the successful applicant's details are made public.

## Record keeping

Councils should retain all records created as part of the recruitment process including the advertisement, position description, selection criteria, questions asked at interview, interview panel notes, selection panel reports and notes of any discussions with the selected candidate. These records are required to be stored and disposed of in accordance with the *State Records Act 1998*.

## DAY-TO-DAY OVERSIGHT AND LIAISON WITH THE GENERAL MANAGER

While one of the prescribed functions of the governing body is to monitor the general manager's performance, day-to-day oversight of and liaison with the general manager should be undertaken by the mayor.

The mayor's role in the day-to-day management of the general manager should include:

- approving leave
- approving expenses incurred, and
- receiving and managing complaints about the general manager in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*.

The council's governing body should ensure there are adequate and appropriate policies in place to guide the mayor in the day-to-day oversight of and liaison with the general manager and keep those policies under regular review.

Some of the key policies the governing body should ensure are in place are those relating to:

- leave
- travel
- credit cards
- purchasing and procurement
- expenses and facilities
- petty cash, and
- financial and non-financial delegations of authority.

The governing body should also ensure there are appropriate policies in place with respect to the expenditure of council funds and reporting requirements in relation to that expenditure.

The council's governing body should satisfy itself that any policy governing the conferral of a benefit on the general manager, such as use of a motor vehicle, allows the actual dollar value of that benefit to be quantified so it can be accurately reflected in the general manager's salary package in Schedule C to the approved standard contract.

## PERFORMANCE MANAGEMENT

### Managing the performance of the general manager

The general manager is made accountable to the council for their performance principally through their contract of employment.

The role of the governing body is to monitor the general manager's performance in accordance with their contract of employment.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Councils may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria must be set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

### Establishing a performance review panel

The governing body must establish a performance review panel led by the mayor, and delegate the task of undertaking the general manager's performance reviews to the panel. The extent of the delegation should be clear.

It is recommended that full responsibility for performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise of the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager.

The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of reviews to the council, and
- development of the performance agreement.

The governing body and the general manager may agree on the involvement of a suitably qualified external facilitator such as a human resources professional to assist with the performance review process and the development of a new performance agreement. That person may be selected by the governing body or the performance review panel.

Councillors who are not members of the performance review panel may be invited to contribute to the performance review process by providing feedback to the mayor on the general manager's performance relevant to the agreed performance criteria.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

The panel should report back to the governing body of the council in a closed session on the findings and recommendations of performance reviews as soon as practicable following any performance review. This should not be an opportunity to debate the results or revisit the general manager's performance review. The general manager should not be present when the matter is considered.

The performance agreement, action plan and any associated records that contain specific information about the work performance or conduct of the general manager are to remain confidential unless otherwise agreed to by the general manager or are required to be disclosed by law. The unauthorised disclosure of this information may constitute a breach of the Act, the council's code of conduct and the *Privacy and Personal Information Protection Act 1998*.

## Establishing the performance agreement

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of the council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the community strategic plan, and the council's delivery program and operational plans.

The performance agreement should also include indicators relevant to the general manager's personal contribution to the council's key achievements and their core capabilities, including leadership qualities.

The performance agreement should also include indicators related to promoting and maintaining an ethical culture within the council. These could include the conduct and measurement of the outcomes from staff surveys and the promotion of whistleblowing procedures under the *Public Interest Disclosures Act 1994* and the reporting of suspected wrongdoing to appropriate oversight agencies including the Independent Commission Against Corruption and the Office of Local Government.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets in the council's delivery program and operational plans
- budget compliance
- organisational capability
- timeliness and accuracy of information and advice to councillors
- timely implementation of council resolutions
- management of organisational risks
- promotion of an ethical culture
- ensuring a safe workplace and facilitating compliance with the *Work Health and Safety Act 2011*, and
- leadership and providing a consultative and supportive working environment for staff etc.

## Performance review process

The approved standard contract requires that the performance of the general manager must be formally reviewed at least annually. The governing body of the council may also undertake interim performance reviews as appropriate.

The assessment should include:

- a self-assessment by the general manager, and
- an assessment by the review panel of the general manager's performance against the performance agreement.

The performance review meeting should be scheduled with sufficient notice to all parties in accordance with clauses 7.6 and 7.7 of the approved standard contract. These require:

- the general manager to give the council 21 days' written notice that an annual performance review is due, and
- the council to give the general manager at least 10 days' written notice that the performance review is to be conducted.



The meeting should concentrate on constructive dialogue about the general manager's performance against all sections of the performance agreement.

The meeting should identify any areas of concern and agreed actions to address those concerns.

In undertaking the performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice. The appointment by the council, in agreement with the general manager, of a suitably qualified external facilitator to advise on the process (see above) should assist councils to comply with these requirements.

The council's governing body must advise the general manager, in writing, in clear terms, the outcome of any performance review.

The new performance agreement for the next period should be prepared as soon as possible after the completion of the previous period. The agreement should be presented to the governing body of the council for discussion in a closed meeting together with the outcomes of the previous review period.

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## REMUNERATION AND REWARD

Under the approved standard contract, general managers are entitled to an annual increase in their salary package on each anniversary of the contract, equivalent to the latest percentage increase in remuneration for NSW public sector senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal.

Councils may also approve discretionary increases to the general manager's total remuneration package under the approved standard contract as a reward for good performance. Discretionary increases may only be approved after a formal review of the general manager's performance has been undertaken and the general manager's performance has been assessed as being better than satisfactory.

Any discretionary increases should be modest and in line with community expectations and only apply for one year unless the council determines that it is to apply for the balance of the contract. All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of the council.

Councils may also on one occasion during the term of the contract approve the payment of a retention bonus to the general manager as an incentive for them to serve out their contract. If approved, the retention bonus is to be accrued on an annual, pro-rata basis for the remainder of the contract and is to be paid at the end of the contract period.

## SEPARATION

### Termination of the general manager's employment

The approved standard contract sets out how the general manager's employment contract can be terminated before its expiry date by either the governing body or the general manager (see clause 10 of the approved standard contract). The circumstances in which the general manager's employment contract may be terminated are set out below:

#### By agreement

The contract may be terminated at any time by written agreement between the council and the general manager.

#### Resignation

The general manager may terminate the contract by giving 4 weeks written notice to the governing body of the council.

#### Incapacity

A council may terminate the general manager's contract by giving them 4 weeks written notice or by paying the equivalent of 4 weeks' remuneration calculated in accordance with Schedule C of the approved standard contract where:

- the general manager has become incapacitated for 12 weeks or more
- they have exhausted their sick leave, and
- the duration of the incapacity is either indefinite or for a period that would make it unreasonable for the contract to be continued.

#### Poor performance

A council may terminate the general manager's contract by giving them 13 weeks written notice or by paying the equivalent of 13 weeks' remuneration calculated in accordance with Schedule C of the approved

standard contract on grounds of poor performance.

A council may only terminate the general manager's contract on the grounds of poor performance where:

- a performance review has been conducted, and
- the council has concluded that the general manager's performance falls short of the performance criteria or the terms of their performance agreement, and
- the general manager has been afforded a reasonable opportunity to utilise dispute resolution under clause 17 of the contract (see below).

#### No fault termination

A council may terminate the general manager's contract at any time by giving them 38 weeks written notice or paying the equivalent of 38 weeks remuneration calculated in accordance with Schedule C of the approved standard contract. If there are less than 38 weeks left to run in the term of the general manager's contract, the council can pay out the balance of the contract in lieu of notice.

Where the council proposes to terminate the general manager's contract on these grounds, if either party requests it and both parties agree, they may participate in mediation in relation to the proposed decision to terminate the contract. If the council does not agree to participate in mediation, it must give the general manager reasons for its decision where the general manager requests them.

Where a council terminates the contract on these grounds, it must give the general manager reasons for its decision to terminate their employment where the general manager requests it.

### Summary dismissal

Councils may summarily dismiss the general manager on the grounds set out under clause 10.4 of the approved standard contract. These include:

- serious or persistent breach of the employment contract
- serious and wilful disobedience of any reasonable and lawful instruction or direction given by the council,
- serious and wilful misconduct, dishonesty, insubordination or neglect in the discharge of the general manager's duties and functions under their contract,
- failure to comply with any law or council policy concerning sexual harassment or racial or religious vilification
- serious or persistent breach of the council's code of conduct
- commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the general manager's ability to perform their duties and functions satisfactorily, or that brings the council into disrepute
- absence without approval for a period of 3 or more consecutive business days.

### Automatic termination

The general manager's contract of employment is automatically terminated where the general manager becomes bankrupt, or they are disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001*.

Where this occurs, the general manager's employment with the council automatically ends without the need for a decision by the council to terminate their contract of employment.

## Suspension of the general manager

Councils may suspend the general manager, for example while allegations against them are

being investigated. Suspension should be on full pay for a clearly defined period. Councils should not suspend a general manager's employment without first seeking expert legal advice. It would not be appropriate to seek advice from council human resources staff on the proposed suspension of the general manager.

Any decision to suspend a general manager should be made at a closed council meeting, having first carefully considered the expert legal advice received in relation to the specific matter.

The principals of procedural fairness apply to any decision to suspend a general manager, i.e., the general manager must be advised of the circumstances leading to their suspension, the reasons for the suspension, the period of the suspension and be given a right to respond to the decision to suspend.

## Dispute resolution

The approved standard contract contains a dispute resolution clause at clause 17. These provisions are designed to encourage councils and general managers to attempt to resolve disputes when they arise.

Councils are required to offer the general manager an opportunity to utilise dispute resolution before they can terminate their employment for poor performance.

Where it is proposed to terminate the contract on the "no fault" grounds (clause 10.3.1(e)), if either party requests it and both parties agree, they may participate in mediation under clause 17 in relation to the proposed decision to terminate. If the council does not agree to participate in mediation, it must give the general manager reasons for its decision where the general manager requests them.

The governing body of the council should ideally resolve to delegate this function to the mayor or a panel of 3 councillors including the mayor.



If the dispute involves the mayor, then the deputy mayor should take the mayor's place. If there is no deputy mayor then the governing body should resolve to appoint another councillor to take the mayor's place.

The governing body of the council and the general manager should agree on an independent mediator to mediate the dispute. The approved standard contract allows the Departmental Chief Executive of the Office of Local Government to appoint a mediator where the parties cannot agree on one.

Councils and general managers may also agree on a mediator when the contract is made.

## RENEWING THE GENERAL MANAGER'S CONTRACT

Clause 5 of the approved standard contract sets out the process for renewing the general manager's contract of employment. The key steps in the process are as follows:

- At least 9 months before the contract expires (or 6 months if the term of employment is for less than 3 years), the general manager must apply to the council in writing if seeking re-appointment to the position
- At least 6 months before the contract expires (or 3 months if the term of employment is for less than 3 years), the council must respond to the general manager's application by notifying the general manager in writing of its decision to either offer the general manager a new contract of employment (and on what terms) or to decline their application for re-appointment
- At least 3 months before the contract expires (or 1 month if the term of employment is for less than 3 years) the general manager must notify the council in writing of their decision to either accept or decline the offer made by the council.

Approval may be sought from the Departmental Chief Executive of the Office of Local Government to vary these timeframes in exceptional or unforeseen circumstances.

The terms of the new contract of employment, and in particular the schedules to the new contract, should be set out in the letter of offer. Before offering a new contract, the council should carefully review the terms of the schedules to the new contract.

The governing body should ensure that the performance criteria of the new performance agreement adequately reflect its expectations of the general manager's performance.

The governing body should also consider previous performance reviews conducted under previous contracts.

The process of deciding whether to offer the general manager a new contract should be as follows:

- a performance review is conducted
- findings and recommendations are reported to a closed council meeting in the absence of the general manager
- the closed meeting considers and decides whether to offer a new contract of employment to the general manager and on what terms as set out in the schedules to the contract
- the mayor informs the general manager of the council's decision.

Details of the decision to offer a new contract and a salary package should be reported to an open council meeting.

## Appendix 1 – Performance management timelines

Timeline	Activity	Responsibility
At commencement of each new council	Provide induction training on performance management of the general manager	Council
Within 3 months of the commencement date of the contract	A performance agreement setting out agreed performance criteria must be signed between the general manager and the council	Council or council panel General Manager
Within 2 months of the signing of the performance agreement	The general manager must prepare and submit to the council an action plan which sets out how the performance criteria are to be met	General Manager
21 days' notice (before annual review)	The general manager gives the council written notice that an annual performance review is due	General Manager
At least 10 days' notice	The council must give the general manager written notice that the performance review is to be conducted	Council or council panel
After 6 months	The council may also decide, with the agreement of the general manager, to provide interim feedback to the general manager midway through the annual review period	Council or council panel General Manager
Prior to the annual review	Ensure all councillors on the review panel have been trained in performance management of general managers	Council
Prior to the annual performance review	The general manager may submit to council a self-assessment of their performance	General Manager
Annually	The general manager's performance must be reviewed having regard to the performance criteria in the agreement	Council or council panel General Manager
Annually	The performance agreement must be reviewed and varied by agreement	Council or council panel General Manager
Within 6 weeks of the conclusion of the performance review	Council will prepare and send to the general manager a written statement with council's conclusions on the general manager's performance during the performance review period	Council or council panel
As soon as possible after receipt of the statement	The general manager and the council will agree on any variation to the performance agreement for the next period of review	Council or council panel General Manager

## Appendix 2 – Stages of performance management

STAGE	ACTION	PROCESS
1. Developing performance agreement	<ul style="list-style-type: none"> <li>Examine the position description and contract</li> <li>List all position responsibilities from the position description</li> <li>Identify stakeholder expectations</li> <li>List the key strategic objectives from the delivery program and operational plans</li> <li>Develop performance measures (identify indicators - set standards)</li> </ul>	<ul style="list-style-type: none"> <li>Good planning</li> <li>Direct and effective communication</li> <li>Open negotiation</li> <li>Joint goal setting</li> </ul>
2. Action planning	<ul style="list-style-type: none"> <li>Develop specific strategies to meet strategic objectives</li> <li>Identify resources</li> <li>Delegate tasks (e.g., put these delegated tasks into the performance agreements for other senior staff)</li> </ul>	<ul style="list-style-type: none"> <li>Detailed analysis</li> <li>Two-way communication</li> <li>Detailed documentation</li> </ul>
3. Monitoring progress (feedback halfway through the review period)	<ul style="list-style-type: none"> <li>Assess performance</li> <li>Give constructive feedback</li> <li>Adjust priorities and reset performance measures if appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Communication</li> <li>Avoid bias</li> <li>Counselling</li> <li>Coaching</li> <li>Joint problem solving</li> </ul>
4. Annual	<ul style="list-style-type: none"> <li>Assess performance against measures</li> <li>Give constructive feedback</li> <li>Identify poor performance and necessary corrective action</li> <li>Identify outstanding performance and show appreciation</li> </ul>	<ul style="list-style-type: none"> <li>Evaluation of the reasons behind performance being as assessed</li> <li>Open, straightforward communication (as bias free as possible)</li> <li>negotiation</li> <li>Counselling, support, training</li> <li>Documenting</li> <li>Decision making</li> </ul>
5. Developing revised agreement	See stage 1	See Stage 1



## 360 Degree Feedback – XXX

### Page 1 – Welcome to the 360 Degree Feedback Survey for XXX

You have been asked to evaluate XXX as part of a 360-degree developmental evaluation process. Other employees will also provide XXX with feedback. In this manner, XXX will be provided with a comprehensive, multi-perspective view of X performance. The end goal is to provide XXX with feedback to allow X to improve his performance. Increased levels of personal performance lead to improved team performance and organisational effectiveness.

Please consider the behaviours of XXX when working through the following questions, rather than what you think of them personally. If you are not able to respond to an item, select “Not Applicable” and go to the next question. When you have finished, press the COMPLETED button at the end of the question sets.

**NOTE:** When you enter comments into the text fields, please focus your comments on work behaviours and styles. The comments you type will be viewed by XXX. Do not enter personal information about yourself unless you want this individual to know you are the author of the comments.

### Page 2 – Team Work

This section will assist XXX to understand how you view X performance as a member of your **peer group** and leader in the organisation.

1. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Is trustworthy						
Is open and approachable						
Seeks collaboration and teamwork among team members and other Directorates						
Is effective in building high performing teams						
Is respected by those outside our team						
Is respected by our team members						

Show respect of others						
Works effectively as a team member						

### Page 3 – Performance Management

2. I believe XXX:

This section is designed to assess both the ways in which XXX manages X own performance, but also the success with which XXX manages the performance of team members.

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Manages the poor performance of direct reports						
Is able to resolve employee conflicts						
Is an effective leader in stressful situations						
Acts as a coach and mentor						
Acknowledges the good performance of others						

### Page 4 – Professional Development

This section will attempt to assess how XXX manages both X professional development and that of his team members.

3. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Seeks professional development opportunities						
Facilitates learning opportunities for others						
Supports professional development of subordinates						

Understands the professional development needs of our team						
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## Page 5 - Communication

This section will attempt to assess the success with which XXX communicates both with internal and external clients. It includes how well XXX accepts feedback as part of the communication process.

4. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Communicates effectively with individuals outside of the Directorate						
Incorporates feedback from others						
Is open to constructive feedback						
Follow up on the suggestions of co-workers						
Listens to employees						
Brings clarity to discussions						
Communicates effectively in presentations						
Is effective in communicating ideas and concepts						
Is effective in gaining commitment by persuasion						
Is open to the ideas of others						

## Page 6 – Change Management

This section seeks to give a brief indication of how well Rohit Srivastava manages change as a leader of the organisation

5. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Understands how organisational change affects employees						
Obtains "buy in" from employees when making organisational change						
Is willing to articulate effectively why certain changes are required						
Actively seeks feedback regarding the success or otherwise of implemented changes						

## Page 7 – Strategic Alignment

These questions are aimed at assessing XXX's ability to think strategically and to align X work with Council's strategic outcomes. The questions will also assess X team's understanding of Council's strategic plans through the leadership of XXX.

6. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Is effective in planning and developing strategic outcomes						
Supports Council's strategic goals						
Converts strategic plans in action						
Demonstrates the values Council						
Aligns the goals of the Directorate with Council objectives						



Understands external factors impacting Council						
Shows employees how their job supports Council objectives						
Communicates Council's vision						

## Page 8 – Work Ethic

The following questions assess how others see XXX's work ethic.

7. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Encourages innovative thinking						
Looks for innovative ways to solve problems						
Has a high work ethic						
Identifies opportunities to achieve goals						
Work diligently toward the completion of goals						
Has high work standards						
Is strict about checking details						

## Page 9 – Decision Making

The final theme of the survey is to analyse XXX's decision making abilities. These questions include the elements required to make good decisions.

8. I believe XXX:

	Always or to a great extent	Often or to a large extent	Sometimes or to an average extent	Rarely or to a below average extent	Never or to a small extent	N/A
Supports the use of advanced technology						

Solves problems at the root cause						
Demonstrates the technical skills required to complete their role						
Is effective at analysing data						
Demonstrates effective decision making						

## Page 10 – Overall Considerations

This section will consider Rohit Srivastava's overall performance in a summarised outline.

9. Please respond to each of the following

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
Given what I know of XXX performance, and if it were my money, I would award XXX the highest possible bonus					
Given what I know of XXX, I would always want X on my team.					

## Page 11 – One Final Thing

So that XXX can receive the best understanding of how each of the respondents to this survey see X, and if you feel you would like to, please provide any other feedback you feel useful to assist XXX in X personal and professional development.

Use caution when entering written comments to make sure the comments provided are constructive. The comments you enter may be shown to XXX. Your confidentiality will be maintained in that XXX will not see the name of the participants who entered the comments or ratings.



Mayor Matt Hannan & Karina Ewer, CEO  
Berrigan Shire Council  
via email

Dear Mayor Hannan & Ms Ewer

*Re: Pedestrian and Traffic Management in Barooga*

The Barooga Advancement Group (BAG) resolved at its meeting on 9 May 2023 to write to Council regarding pedestrian and traffic management in Barooga.

The Committee has a number of concerns about pedestrian safety and the peaceful enjoyment of residential areas in Barooga as a result of inadequate pedestrian and traffic measures. We believe that these matters will be further exacerbated by anticipated growth in the town (both residential and industrial).

Barooga Advancement Group calls on Council to: **formally commission an independent pedestrian and traffic management review of the entire township of Barooga that identifies options for addressing current concerns (see details of 'hot spots' below) and future requirements of the town.** It is our view that this review is timely and will enable our town to evolve as an attractive, modern township.

Further, we ask that: **Council review and update the Barooga Pedestrian Access and Mobility Plan (dated 2020, but not adopted by Council), with a view to putting forward a 2023 plan to Council for formal adoption.**

*'Hot spots'*

This is not intended to be an exhaustive list, but it outlines significant areas of concern identified and reported to the committee.

Vermont street shopping strip: BAG has significant concerns regarding pedestrian safety in Vermont Street. Trucks and other traffic exiting the bridge do so at high speed with little consideration for pedestrians. We request that the review considers the best way to manage these risks taking into consideration the need to retain parking in the street. We note, in particular, the lack of suitable points for pedestrian crossing in the street and ask that options be explored in the review.

PO Box 300 BAROOGA NSW 3644

baroogaadvancement3644@gmail.com

We also strongly encourage Council to complement the existing footpath with another on the opposite side of the road. We have observed strollers, scooters and walkers using the busy road as the existing grassed area leading to Sweet Ness coffee shop and the Adventure Playground cannot accommodate these. We also note that an additional footpath will assist in the activation of the town centre.

Golf course road: BAG is concerned by the speed of vehicles and lack of safe pedestrian crossing points along Golf Course Road, particularly with vehicles turning left off the bridge. We suggest that urgent consideration should be given to how this will be managed with the new walk that Barooga Sports Club will be opening soon. Consideration should also be given to better managing crossings at the golf course and from the motel precinct.

Hughes Street truck management: BAG asks that consideration be given to establishing a formal truck route through the town. Hughes Street has been identified as a particular cause for concern with traffic, especially trucks, passing homes and Barooga Public School at all hours, sometimes at speed. In our view it would be better to establish an alternative route for trucks around the town, if possible, noting that trucks will still need to be managed through Vermont Street.

Barooga Botanical Gardens: Pedestrian crossing in the region of the Hughes Street intersection to the gardens is difficult. We note the intention to install EV Chargers opposite the gardens and strongly recommend that Council consider how it can manage pedestrian crossing in this high traffic area, given the new parking area is intended for users of the gardens.

Lions Shelter, Nangunia Street: We note that this area is often used for the purpose of truck parking. We have significant concerns about traffic management at this location during school drop off and pick up, with children, cars, bus and trucks in a confined area. We suggest that Council consider alternative parking for trucks and discouraging the use of this location.

Speed management: Lawson Drive, Banker Street, Snell Road, Hughes Street, Golf Course Road, Takari Street, Burkinshaw Street, Nangunia Street and Vermont Street have all been identified as areas where measures to manage speed could be initiated. We ask that these roads, in particular, be considered in the review.

We appreciate your attention to these matters and welcome your response to our concerns.

Best Regards

A handwritten signature in dark ink, appearing to read "Julia Cornwell McKean".

Julia Cornwell McKean  
President, Barooga Advancement Group  
10 May 2023



## Transport for NSW



Ms Karina Ewer  
Chief Executive Officer  
Berrigan Shire Council  
PO Box 137  
Berrigan NSW 2712

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Re: Traffic Management and Pedestrian Works Temporary Delegation- our ref: CST23/00546

Dear Ms Ewer,

Transport for NSW (TfNSW) is committed to working with local government to improve the prosperity, safety and liveability of our neighbourhoods.

In response to the COVID pandemic, the NSW Government simplified approvals processes for outdoor dining with a range of regulatory changes. Among these changes were regulations allowing rapid creation of on-road space for outdoor dining, and a temporary delegation issued by TfNSW to facilitate temporary pedestrian and cycling areas and lanes.

I have now resolved to delegate further powers to local government to exercise Transport's functions with respect to outdoor dining and a number of low-impact improvements to pedestrian conditions on local roads. The revised instrument of delegation, valid until 2026, is enclosed alongside a guide to explain its use.

The delegation means all local councils will have the option of carrying out works on local roads without requiring referral to the Local Traffic Committee or TfNSW. This option is contingent on the proposed improvements meeting a number of important safeguards relating to location, design compliance and notification according to well established TfNSW standards, specifications and technical directions, Australian Standards and the Austroads guidelines.

TfNSW continues to provide training, advice and coordination for local government in a range of capacities, including the operation of the Local Traffic Committee. Councils remain welcome to submit any item to the Committee and where the delegation requires to consult with NSW Police and their local TfNSW representatives.

TfNSW will monitor this delegation closely as a trial of changed responsibilities and evaluate the reform with input from local government.

If you have any further questions regarding this delegation, please contact [delegated\\_works@transport.nsw.gov.au](mailto:delegated_works@transport.nsw.gov.au).

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Sharp".

Rob Sharp  
Secretary  
24 February 2023

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231 Elizabeth Street, Sydney NSW 2000  
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Transport  
for NSW

## INSTRUMENT OF DELEGATION AND AUTHORISATION

TRAFFIC MANAGEMENT AND PEDESTRIAN WORKS  
TEMPORARY DELEGATION TO COUNCILS*Roads Act 1993  
Road Transport Act 2013*

On behalf of Transport for NSW, I, Rob Sharp, Secretary of the Department of Transport:

- a) **DELEGATE** under section 31(1) of the *Transport Administration Act 1988* (the 'Act') and all other enabling powers, the functions set out in **Schedule 1** to the councils set out in **Schedule 2**, and
- b) **AUTHORISE** those delegates, under section 31(2) of the Act, to sub-delegate the functions set out in **Schedule 1** to the persons set out in **Schedule 3**,

subject to the conditions set out in **Schedule 4**.

A failure to comply with the conditions set out in **Schedule 4** renders the delegation inoperative with respect to the works being undertaken.

In addition, I **AUTHORISE** under section 122(b) of the *Road Transport Act 2013*, the councils set out in **Schedule 2**, to install or display (or interfere with, alter or remove) any prescribed traffic control device as set out in the TfNSW "*Traffic Signs Database*" and indicated as "*Delegated to Council for Authorisation – Yes*", required to give effect to this delegation, including any portable traffic control lights, but NOT any internally illuminated traffic control device.

This delegation and authorisation commences on the date it is made and will continue in force until 30 June 2026 unless revoked earlier.



Rob Sharp  
Secretary  
Department of Transport

Date: 24 February 2023

### **SCHEDULE 1 - FUNCTIONS**

The functions and powers of Transport for NSW under section 115(2) of the *Roads Act 1993* to regulate traffic on a public road for purposes other than those set out in section 115(3), being the following types of pedestrian works:

- Works to enable alfresco dining on a road (where there is no change to the number of continuous travel lanes)
- Continuous footpaths
- Converting existing pedestrian (zebra) crossings to raised pedestrian ('wombat') crossings
- Mid-block treatments to manage vehicle speed including road humps, road cushions, chicanes and slow points
- Pedestrian crossings
- Pedestrian refuges
- No Stopping controls at intersections
- Kerb buildouts to reduce intersection crossing distance or manage vehicle speed (where there is no change to the number of continuous travel lanes)
- Kerb modifications for footpath improvements or tree planting (where there is no change to the number of continuous travel lanes)
- Associated changes to kerbside parking necessary to implement the proposal and to offset any parking impacts.

### **SCHEDULE 2 - DELEGATES**

A council constituted under the *Local Government Act 1993*.

### **SCHEDULE 3 – SUB-DELEGATES**

The general manager of a council, or an employee of the council.

### **SCHEDULE 4 - CONDITIONS**

1. A delegate or its sub-delegates may only exercise the functions in schedule 1:
  - (a) On public roads within the local government area under the *Local Government Act 1993* for which the delegate is the roads authority;
  - (b) On unclassified roads with a speed limit of 50km/h or less;
  - (c) Not on or within 50 metres of a directly adjacent road on which a regular light rail service operates;
  - (d) Not on a road or intersection, or within 10 metres of a road or intersection, on or through which a regular bus service operates;
  - (e) Not within 100 metres of traffic lights; and
  - (f) Not on a road to which a clearway applies.
2. Delegates must use any relevant Transport for NSW established standards, specifications and Technical Directions, and the relevant Austroads guidelines and Australian Standards when designing and implementing the selected pedestrian works. Any novel designs or works where there are no established standards, technical directions or guidelines are to be dealt with under existing processes and are not subject to this delegation.

3. Delegates must submit a record of the works undertaken to TfNSW and NSW Police for information and reporting purposes. In the case of a new pedestrian crossing the record of works must include a copy of a road safety audit.





## Guide to Councils

### Traffic Management and Pedestrian Works Temporary Delegation

The intent of the pedestrian works temporary delegation is to facilitate more efficient and localised decision making.

The pedestrian works selected for this delegation have been identified as opportunities for councils to exercise their understanding of local needs and implement appropriate designs according to well established [Transport for NSW \(TfNSW\) standards, specifications and technical directions](#), Australian Standards and the [Austroads guidelines](#).

The delegation is a trial to help Transport for NSW (TfNSW) evaluate expanded localised decision-making. The information gathered from councils exercising the delegation will inform TfNSW as to whether the delegation requires refinement and will assist shaping longer term traffic management strategies.

The delegation may be revised or revoked at any time.

#### How to use the delegation

The delegation allows councils to approve and implement selected pedestrian works without needing to seek concurrence, approval or input from TfNSW. Councils do not need to seek the advice of their Local Traffic Committee (LTC).

That said, the delegation does not stop councils seeking additional advice from TfNSW or LTC to implement the selected pedestrian works. It is designed to offer a more streamlined process for decision making.

TfNSW and LTC actively welcome Councils to seek advice or assistance if it is considered useful.

#### What is being delegated?

Subject to the conditions set out in the delegation, councils will be able to design and implement the following:

- Works to enable alfresco dining on a road (where there is no change to the number of continuous travel lanes)
- Continuous footpaths
- Converting existing pedestrian (zebra) crossings to raised pedestrian ('wombat') crossings
- Mid-block treatments to manage vehicle speed including road humps, road cushions, chicanes and slow points
- Pedestrian crossings (i.e. not at signals)
- Pedestrian refuges

OFFICIAL

- No Stopping controls at intersections
- Kerb buildouts to reduce intersection crossing distance or manage vehicle speed (where there is no change to the number of continuous travel lanes)
- Kerb modifications for footpath improvements or tree planting (where there is no change to the number of continuous travel lanes)
- Associated changes to kerbside parking necessary to implement the proposal and to offset any parking impacts.

Novel designs and works are excluded under the delegation. Any novel works, where there are no TfNSW standards, technical directions or Austroads guidance available, will be subject to existing processes.

## Reporting Requirements

The delegation will assist in evaluating whether localised decision making for certain works is a more sustainable and effective model for councils.

The reporting requirement will assist TfNSW to respond to any issues, provide support to councils and evaluate the efficacy of the temporary delegation for long term local traffic management strategy.

When exercising the delegation, council must provide TfNSW and NSW Police:

1. A description of the pedestrian work;
2. A copy of the as-built design plans; and
3. A copy of the road safety audit if establishing a new pedestrian crossing

The information is to be sent to [delegated\\_works@transport.nsw.gov.au](mailto:delegated_works@transport.nsw.gov.au).

## Further Enquiries

For further questions or information on the delegation please email [delegated\\_works@transport.nsw.gov.au](mailto:delegated_works@transport.nsw.gov.au).