

# **ATTACHMENTS**



## **EXTRAORDINARY MEETING AGENDA**

**THURSDAY 11 SEPTEMBER 2014**

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## ~ REFERENCE TO ATTACHMENTS ~

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**PART A – ACTION**

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## **DELEGATIONS TO THE MAYOR**

Pursuant to Section 377 and Section 381 Local Government Act 1993, Council hereby delegates to the Mayor the following powers and authorities:

1. To give effect to the provisions of the Local Government Act 1993 and any other Act conferring powers or duties upon the Mayor and to any resolution or direction given to the Mayor by the Council.
2. To direct the General Manager, where necessary, in the interpretation and implementation of each and every policy, code or procedure of the council which is current and has been adopted by Council resolution.
3. To preside at all meetings of Council, Committees, Community Committees and public meetings convened by Council at which the Mayor is present unless the Mayor otherwise appointments another Councillor or person to perform this function.
4. To participate in negotiations on behalf of the Council with third parties and in connection with the sale, purchase and lease of lands and buildings in conjunction with the General Manager and in accordance with any Council resolution.
5. To give direction to Council, following consultation with the General Manager, in the application of the Code of Conduct as adopted by the Council and where necessary apply appropriate censures to elected members.
6. To represent Council, in conjunction with the General Manager, in deputations to Government enquiries and other forums where it is appropriate that the Mayor should present the Council's position.
7. To make media statements and issue press releases on behalf of Council in respect of Council resolutions and decisions or any other matter.
8. To appoint a person to the position of Acting General Manager temporarily whilst the existing General Manager is on leave of absence in consultation with the General Manager. (Section 351).
9. To exercise, in cases of necessity, the policy making functions of Council between meetings of the Council, provided such matters are reported to the next Ordinary Council Meeting. (Section 226).
10. To declare or revoke by instrument in writing any extension of the Statutory Bush Fire Danger Period. (Section 82 Rural Fires Act 1997).
11. To determine that, because of the seriousness of the bush fire danger in the Shire area or part of the Shire area no permit shall be issued under Section 87 Rural Fires Act. (Section 93 Rural Fires Act).

## DELEGATIONS TO THE GENERAL MANAGER, COBAR SHIRE COUNCIL

- (a) Council acknowledge the General Manager's Operation, Planning And Management System contained within items 1.001 to 1.009 and the notes on Delegation of Authority contained in points 2.001 to 2.005 of the Schedule detailed hereunder; and

### 1.000 GENERAL MANAGER'S OPERATION, PLANNING AND MANAGEMENT SYSTEM:

#### Definitions:

- 1.001                   \*     Councillors are referred to as members of Council.  
                          \*     Senior Executives are referred to as Officers of Council.  
                          \*     All other employees are referred to as staff of Council.  
Except where the terms "officer" and "servant" must be used in a legal sense.
- 1.002                   The General Manager implies and means:  
  
The embrace of the total management and operating work required to accomplish the implementation and operation of Council's Management Plan and Policies within parameters determined by controlling Statutes, and Council's policy scope and limitations.
- 1.003                   To "administer" a policy means to carry out whatever managing and operating work is necessary.
- 1.004                   To "manage" means to work at planning, leading, organising, and controlling as applied to the operations of senior and specialised executives, to ensure that the translation of Council's policy into action takes place with due speed, accuracy, caution and decorum.
- 1.005                   "Operating work" means the work needed:
- To interpret and determine any operating policy;
  - To confer with, counsel, direct, and control Senior Executives;
  - To issue "delegations" of operating authority and to hold the delegates accountable for their performance.
  - To act as the communication channel between the Council, Mayor, Councillors and the staff.
- 1.006                   The term "General Manager" describes the person appointed and employed as General Manager and it is also the symbol of Council delegated responsibilities and authorities which is the reason why all communications should be addressed to the General Manager.

- 1.007 The General Manager, by law, has to be the recipient of all delegated authority and the source of operating control, with Council approval of the exercise of the authority and powers through the responsibility and accountability chain.
- 1.008 "Accountability" to Council for the proper or improper exercise of delegated authorities and powers, always remain with the General Manager. This is in accord with the legal maxim "delegatus non protest delegare", i.e. that a delegate cannot himself re-delegate powers or accountability. This happens because a delegate having exercised powers, shall, if required by the General Manager, report to the General Manager and shall be accountable to him for the exercise of any such powers. Consequently, whilst the General Manager is accountable to Council, the appropriate delegate becomes accountable to the General Manager.
- 1.009 Operating authority is always to a position, but the delegation operates only in favour of the person holding the particular position at the date of the delegation and must be reconsidered each time that position is vacated. Again, control is exercised by Council, in respect of the General Manager, and the General Manager in approving the persons whose principal responsibility is to act in any position as or for the incumbent, and in the absence of the incumbent, as it is specified in the job description and delegation.

## 2.000 NOTES ON DELEGATION OF AUTHORITY:

- 2.001 The purpose of the form of resolution is to achieve a means of delegating certain powers to the General Manager in such a manner as to permit him to refer the actual exercise of these powers to other Officers in Council's organisation structure. The power should be delegated in such a way as to permit their exercise by the occupants of particular positions from time to time in the organisation.
- 2.002 The provisions of Section 377 of the Local Government Act, 1993 permit the Council to delegate any of its powers to the General Manager in such a manner as to permit him to re-delegate or sub-delegate them to other Officers in the responsibility chain. Other Officers of Council cannot re-delegate or sub-delegate to others in the responsibility chain.
- 2.003 It is an essential part of the General Manager's functions to issue instructions to members of the staff requiring numerous types of acts to be performed as part of the Council's operations. Council itself can delegate to any person or body (excluding an employee of Council), provided that the General Manager may not have exercised his delegated powers.
- 2.004 Council and the General Manager maintain statutory and management control of the process of delegation by adopting same by resolution or Job Description, and then from time to time amendments thereto, or else by refusal or withdrawal of delegation.
- 2.005 Notifications to applicants advising of approvals/refusals by Officers exercising delegated authority always state:

"Council has approved/refused your application", but never use terms such as "I have approved/refused your application under delegated authority".

(b) **DELEGATION OF AUTHORITY - GENERAL MANAGER**  
**SECTION 377 LOCAL GOVERNMENT ACT, 1993**

Pursuant to Section 377 of the Local Government Act 1993, Cobar Shire Council hereby delegates to the General Manager, **Gary John WOODMAN**, and to the person holding the aforementioned position in an acting capacity the exercise of Council's powers, functions, duties and authorities contained in legislation and matters specified in Schedule 1 subject to the limitations specified in Schedule 2. This delegation shall commence on the 12 July 2010 and remain in force until specifically altered or revoked in writing.

**SCHEDULE 1**

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|-----------|--|
| <b>1.</b> | The functions of the Council as specified in:                                      |
|           | (i) the Local Government Act 1993 and related Acts and Regulations; and            |
|           | (ii) other Acts under which Council has powers, authorities, duties and functions. |

**SCHEDULE 2**

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| <b>1.</b> | Subject to the provisions of the Local Government Act 1993 and any other relevant legislation to the delegations and the following functions: -  |
|           | <b>Approvals</b>   |
|           | (a) Any application for "approval in principle" or "staged approval".  |
|           | <b>Town Planning</b>   |
|           | (a) Designated Development   |
|           | (b) Non-residential development outside the industrial zones, which are not consistent with the activities presently accepted in the location of the proposed developments.                |
|           | (c) Applications which are the subject of written objections.  |
|           | <b>Local Government (General) Regulation 2005</b>  |
|           | (a) The writing off of bad debts greater than the amount fixed from time to time by Resolution of Council in accordance with Clause 213 of the Local Government (General) Regulation 2005. |
| <b>2.</b> | Council may by resolution direct the General Manager in the exercise of any function herein delegated.   |
| <b>3.</b> | The General Manager shall exercise the functions herein delegated in accordance with and subject to:-  |
|           | (a) The provisions of the Local Government Act 1993 as amended.  |
|           | (b) All and every policy of the Council adopted by resolution and current at the time of the exercise of the functions herein delegated.   |

# Committee Members & Delegates 2013/2014



COMMITTEES OF COUNCIL	CLR BRADY	CLR HARRISON	CLR ISBESTER	CLR KINGS	CLR MARS DEN	CLR MARTIN	CLR MAXWELL	CLR SINCLAIR	CLR SMITH	CLR TOOMEY	CLR WILSON	CLR YENCH
Finance and Policy	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆
Works Committee	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆
<b>DELEGATES TO ORGANISATIONS</b>												
Local Traffic Committee	CLR BRADY	CLR HARRISON	CLR ISBESTER	CLR KINGS	CLR MARS DEN	CLR MARTIN	CLR MAXWELL	CLR SINCLAIR	CLR SMITH	CLR TOOMEY	CLR WILSON	CLR YENCH
Mallee Bushfire Prevention Committee				☆				☆				
Western Division Councils of NSW	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆
Orana Regional Organisation of Councils	☆											
Mungindi/Menindee Water Users			☆		☆			☆				☆
Wool Track Development Advisory	☆				☆	☆	☆		☆	☆		☆
Kidman Way Promotional Committee						☆			☆	☆		☆
Tourism Advisory Committee												
Outback Arts Board			(Alt)									(Alt)
Mt Grenfell Board of Management												☆
Macquarie Valley Weeds Advisory Com.							☆					
Lachlan Valley Weeds Advisory Com.					☆							
Liquor Accord Committee	☆				☆							
Murray Darling Association					☆							
Cobar Youth Council					☆				☆	☆		
<b>Other Delegates</b>												
Australia Wide Rural Roads Group							(Alt)	☆				
Regional Development Australia - Orana												☆
Lower Macquarie Water Utilities Alliance	☆											
Rural Roads Advisory Committee	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆	☆
Cobar Water Board	☆			☆						☆		
Ward Oval Sports Advisory Board	☆											
Association of Mine Related Councils	☆											
Internal Audit Committee			☆					☆				
Western Regional Joint Planning Panel			(Alt)					☆				
Airport Advisory Committee				☆	☆	☆						
Skate Park Facility Steering Committee					☆				☆			
Cobar War Memorial Hostel Committee					☆							
Cobar Cemetery Committee	☆								☆			
General Manager's Review Committee	☆		☆				☆					
Hera Mine Consultative Committee					☆							
Cobar Shire Rural Fire District Service Agreement Liaison Committee	☆					☆						
Cobar Shire Bush Fire Management	☆											
Australia Day Awards Panel	☆			☆	☆	☆						
Economic Taskforce					☆	☆		☆				☆