

Work 'In Lieu' and 'In Kind' Policy

- Section:** 3.1.8 – Engineering Services – Transport
- Subject :** Work 'In Lieu' and 'In Kind'
- Description:** This document sets out the manner in which work '*in lieu*' and '*in kind*' is carried out by Council.
- Objectives:** To ensure that staff and recipients of work '*in lieu*' or work '*in kind*' understand the definitions of such work.

Policy:

Definitions:

- *Work "in lieu"* refers to work carried out by Council in lieu of the payment of specific amounts of money by Council to the landowner. Circumstances when these occasions would arise would include the situation where Council is working in a gravel pit and owes royalty rates to the landowner or in which the landowner has carried out any other service for Council and wishes not to be compensated in cash but in terms of work carried out to the value of the amount owed to the landowner.
- *Work "in kind"* refers to work carried out by Council for private individuals and organisations in return for benefits which have been extended to the Council by those people but in which case the benefits have not been specifically costed. An example of this type of benefit would involve a landowner permitting Council to use a private road to gain access to a creek or a waterhole, rather than Council needing to travel longer distances to an alternative source of water, thereby saving Council money. In return for the landowner granting this permission to Council, Council might agree to grade the landowners private road when the work has been completed. The work could have the element of "returning a favour" to the landowner and also an element of restoring damage which may have been done to the road.

Policy Statement:

- **Work "in lieu"**

When strict records are kept of the funds owed to the landowner for services rendered to Council and the work carried out in lieu of payment for that service is accurately costed, Council is fully accountable for the work done on the landowner's property. As a matter of policy, Council agrees to the principle of carrying out this work "in lieu" of paying cash, where the landowner requires this arrangement. All income and expenditure must be fully accounted for

- **Work "in kind"**

When work is carried out "in kind", there is no strict record of the value of the work done in relation to the benefits extended to Council. Council's policy is that it will agree to carry out work "in kind" in special circumstances, but that it recognises the need to take care when work is carried out "in kind", as it may appear that some landowners achieve more favourable arrangements than others, without that fact being properly recorded. All decisions to carry out work "in kind" must be made by the Director of Engineering Services. The Director Engineering Services will be required to document on file the reasons for carrying out the work "in kind" and to make an estimate of the savings gained by Council as a result of the landowner granting some benefits to Council and an estimate of the cost of the work done by Council for the landowner. A clear link needs to be established between benefits incurred to Council and costs expended on carrying out the work "in kind".

In both cases of work being carried out "in lieu" and "in kind", Council's staff are to accurately record on their timesheets that the work was carried out on private property, so that the cost of the work is able to be identified. When work carried out "in kind" is to be allocated not as a charge to the landowner but as a charge to a job which has benefited by the benefit extended to the landowner, that fact is to be noted on the timesheet when the cost allocations are made.

- **Records**

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It is important that the fact of whether work is to be carried out "in lieu" or "in kind" is agreed in writing between the landowner and the Council prior to any work being carried out. Council's policy is that in almost every case the agreement will include a sunset clause which will specify the time period within which the work will be carried out either in terms of a fixed date or in terms of stages in the progress of the work being carried out on private property. For example, the owner may wish to accumulate royalties owed to him/her until such times as those royalties reach a specified value when they will then be used to carry out work "in lieu".

- **Taxation Information**

Council has been advised by the Australian Taxation Office that the value of work "in lieu", as described in this policy, would be considered to be assessable income for taxation purposes while the value of work "in kind" would not.

- **Goods and Services Tax (GST)**

Council shall calculate the value of the benefits it receives on each occasion under this policy and remit the appropriate amount of GST.

Exemptions: Nil

Other Matters: Nil

Responsibility: **Councillors** are responsible for adopting the Policy and ensuring that appropriate resources are allocated.

The **General Manager** has the responsibility to authorise the Policy.

Directors and Managers are responsible for reviewing, updating and implementing the Policy.

Employees are responsible for following the Policy.

Related Documents:

- Nil

Review: This Policy will be reviewed as necessary or at least every four (4) years from date of adoption.

Last review: October 2013

Reviewer: Director of Engineering Services

Resolution # 526/97, 94/05 (March 2005), 419/09 (September 2009), 249/13 (August 2013),

Authorised by:

General Manager

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Date