



LATE REPORTS TO COUNCIL

22 October 2019

Late Notice of Motion

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NOTICE OF MOTION

Submitted by:	Cr Bob Crouch
Subject:	Late Notice of Motion – Provision of portable Grandstands for the Australian Medieval Combat Federation Tournament

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Objective:	1.4	Access to and equity of services
Strategy:	1.4.4	Provide opportunities for residents to enjoy access to arts, festivals, sporting activities, recreation, community and cultural activities.
Activity:	1.4.4.1	Increase community participation in community and cultural events

COUNCILLOR'S MOTION:

That Council:

- 1. Waive the rental charge and bond for the hire of the three grandstands for the weekend of 26-27 October by the Australian Medieval Combat Foundation; and**
- 2. Either permit the Australian Medieval Combat Foundation to transport the grandstands or fund from the General Fund the cost of administration and transport relating to the relocation of the three portable grandstands to the combat site near the Bowling Club for the medieval combat tournament and the return of the grandstands to the sporting complex (quote \$1,318.01).**

BACKGROUND:

The Australian Medieval Combat Federation is conducting a Medieval Combat Tournament on the same weekend as Thunderbolts Festival (26th October). In the week of 30th September a representative of the Bowls Club requested the loan of the Council's portable grandstand. The following week he was advised that it was OK to borrow the grandstand, with no mention of fees and charges.

On Thursday 17th Council Staff advised there would be a charge of \$1495.04 to cover the cost of rental and transport to the tournament site and repatriation to the sporting complex. The representative was advised that Council had to Transport the grandstands and he was not permitted to provide the transport as originally discussed.

At this late stage there is no opportunity for the Bowling Club to apply for funding to meet the cost of the Grandstand relocation, consequently the tournament is unlikely to use the grandstands.

The other issue is that the rental fees and bond are not included in Councils list of fees and charges as approved by Council following public exhibition as per the requirements of Section 610F of The Local Government Act 993. Levying of the fees is therefore contrary to the Act.

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The Medieval Combat Tournament as the largest historical medieval battle in the Southern Hemisphere will bring people to Uralla. It is good for the town and Council should be seen to be supporting the event. The late notice of substantial fees and charges does not support the Tournament and does not send the right message to promoters of events that may come to Uralla.

CONCLUSION:

Council should be seen to support events such as this in Uralla, and not levy fees contrary to the requirements of the Local Government Act 1993.

OFFICER'S ASSESSMENT

Council received correspondence via email on the 26th September from stating,

"Hi Michael as per conversation I was just wondering would the council loan the grandstand from The Sporting Complex for one day on the 26th of October will pick up on the Friday and delivered back on the Sunday thank you ..."

Contact was made with the applicant by a Council staff member on the 2nd October advising that one grandstand could be made available. It is understood that there was no discussion regarding charges.

Upon review last week, staff realised that the charges had not been determined and the risk associated with the pick up and return of the grandstand by others, provided for unacceptable liability to Council.

The applicant was contacted and advised on the 17th October, 2019 that;

- there would be a fee for the grandstand;
- that Council had 3 grandstands; and
- that Council staff would be responsible for delivery and pickup.

The applicant acknowledged there would be a fee and requested all three grandstands.

A cost was determined based on the private works approach for Civil Engineering Works and plant hire (based on asset life consumption) at cost plus 25%.

The following charges for the provision of the three grandstands was advised to the applicant on the 17th October 2019.

"Fees and Charges

\$ 1,495.04 + GST Total

\$ 177.03 + GST for three grandstands for a minimum of a week's hire.

\$ 1,318.01 + GST for administration and transport.

Bond

\$1000 + GST bond is required as security for the three grandstands."

The portable grandstands located at the Uralla Sports Complex are a recent acquisition and there are no hire costs identified in the Council's fees and charges.

Additionally, the private works listed in the fees and charges provides for costs plus 25%, and is identified against particular works or Civil Engineering Works.

A quotation was sought to compare the cost to provide a 40 person grandstand to Uralla, including assembly and breakdown at \$3,000 plus GST.

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While the calculated charges provide for a fair and reasonable charge, the fees and charges schedule as adopted by Council is specific to Civil Engineering Works and consideration should be made to provide a basis for determining one off private works or hire arrangements going forward.

The provision of Council support to private entities such as the Australian Medieval Combat Federation in terms of financial, labour, plant or asset usage requires careful consideration to ensure that all relevant issues are considered including:

- Should a policy be developed in the first instance?
- Should a fee be determined first (following the requirements of section 610F(3) before the stands are available for hire?
- Should a proper risk assessment be undertaken before hiring the stands to anyone?
- Can financial assistance be provided to others without first publicly notifying the community?

Policy Development

Council should develop a policy on the 'free' use of council assets. The policy needs to address as many of the matters that might normally arise in making such a decision, such as:

- Is there a conflict of interest?
- Does it benefit the whole community?
- Has it been publicly advertised in accordance with section 356?
- Are there specific risks that need to be considered?

Risk Assessment

Risks to the general public and Council's assets need to be considered in regard to the collection, transport and location of assets such as portable grandstands. Such risk is minimised if experienced Council staff handle the pickup, delivery, correct set-up and return of these items.

However, the grandstands are quite light and may be able to be manually lifted by 6 able bodied men organised by the applicant. The applicant would need to satisfy himself that this can be safely done.

Financial Assistance to Others

Section 356 of the Local Government Act addresses the issue of whether a council can financially assist others.

Council in considering a request for the waiving of a fee. Council recently resolved that such a matter was best handled by the applicant paying the fee and Council resolving to provide financial support through its Community Grants Program. A copy of the previous report is attached. An advertising period of 28 days is required prior to any payment or benefit being made.

Given that the Grandstands were funded by the Stronger Country Communities Program (at no cost to Council), the provision of the grandstands to support local events (after consideration of the needs of the sporting clubs) for no charge could be considered appropriate. This approach would align with the intent of the Stronger Country Communities Program.

This fee should be confirmed by Council resolution and duly advertised.

It is recommended that Council;

- Set the fee for the hire of the three grandstands for the weekend of 26-27 October by the Australian Medieval Combat Federation at no charge;

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- Permit the Australian Medieval Combat Federation to transport the grandstands to the site of Combat with the proviso that they are returned to their current location on the Monday after the event;
- The Australian Medieval Combat Federation be liable to repair any damage to the grandstand as a result of their movement;
- That this be treated as a one off and that any further use of the stands be subject to a policy determined by the Council within the next three months;
- That Uralla Shire Council be acknowledged as a supporter during the event.

COUNCIL IMPLICATIONS:

1. Community Engagement/ Communication (per engagement strategy)

Council has not undertaken any consultation on the free use of council assets.

2. Policy and Regulation

Provision of the grandstands in this instance is not supported by any policy.

3. Financial (LTFP)

Goods and Services should provide for full cost recovery as a minimum.

4. Asset Management (AMS)

N/A

5. Workforce (WMS)

N/A

6. Legal and Risk Management

Manual handling, asset damage and public liability risks require appropriate management.

Legislative provisions requiring consideration include:

Local Government Act 1993 No 30

Current version for 25 June 2019 to date (accessed 21 October 2019 at 05:31)

356 Can a council financially assist others?

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.
- (2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.
- (3) However, public notice is not required if:
 - (a) the financial assistance is part of a specific program, and
 - (b) the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
 - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - (d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.
- (4) Public notice is also not required if the financial assistance is part of a program of graffiti removal work.

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[Chapter 15](#) [Part 10](#) [Division 3](#) [Section 610E](#)

610E Council may waive or reduce fees

- (1) A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.
- (2) However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F (2) or (3).

Local Government Act 1993 No 30

Current version for 25 June 2019 to date (accessed 21 October 2019 at 05:12)

[Chapter 15](#) [Part 10](#) [Division 3](#) [Section 610F](#)

610F Public notice of fees

- (1) A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.
- (2) Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made.
- (3) However, if, after the date on which the operational plan commences:
 - (a) a new service is provided, or the nature or extent of an existing service is changed, or
 - (b) the regulations in accordance with which the fee is determined are amended, the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.
- (4) This section does not apply to a fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in an applicable filming protocol.

Local Government Act 1993 No 30

Current version for 25 June 2019 to date (accessed 21 October 2019 at 05:03)

[Chapter 6](#) [Part 3](#) [Division 3](#) [Section 67](#)

67 Private works

- (1) A council may, by agreement with the owner or occupier of any private land, carry out on the land any kind of work that may lawfully be carried out on the land.

Note.

Examples of the kind of work that a council might carry out under this section include:

- paving and roadmaking
 - kerbing and guttering
 - fencing and ditching
 - tree planting and tree maintenance
 - demolition and excavation
 - land clearing and tree felling
 - water, sewerage and drainage connections
 - gas and electricity connections.
- (2) A council must not carry out work under this section unless:
 - (a) it proposes to charge an approved fee for carrying out the work as determined by the council in accordance with Division 2 of Part 10 of Chapter 15, or
 - (b) if it proposes to charge an amount less than the approved fee, the decision to carry out the work is made, and the proposed fee to be charged is determined, by resolution of the council at an open meeting before the work is carried out.

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- (3) A council must include details or a summary of any resolutions made under this section and of work carried out under subsection (2) (b) in its next annual report.
- (4) A report of work to which subsection (2) (b) applies must be given to the next meeting of the council after the work is carried out specifying:
 - the person for whom the work was carried out
 - the nature of the work
 - the type and quantity of materials used
 - the charge made for those materials
 - the total of the number of hours taken by each person who carried out the work
 - the total amount charged for carrying out the work (including the charge made for materials)
 - the reason for carrying out the work.
- (5) This section does not apply to work carried out by a council, or by two or more councils jointly, for another council or for a public authority.
- (6) This section does not apply to any graffiti removal work carried out by a council in accordance with Part 4 of the *Graffiti Control Act 2008*.

7. Performance Measures

N/A

8. Project Management

N/A



Bob Crouch, Councillor



Robert Bell, Councillor

Officer's Assessment prepared by:
Approved/Reviewed by Manager:
Department:
Attachments:

Terry Seymour, Director Infrastructure and Development
David Aber, Acting General Manager
General Manager's Office

- A. Report to 28 November 2017 Ordinary Council Meeting -
Report 13 - Community Grant for Council Fees under S356



REPORT TO COUNCIL

Department:	Community and Governance
Submitted by:	Community Development and Tourism Coordinator
Reference/Subject:	Report 13 - Community Grant for Council Fees under S356

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Objective:	A diverse and creative culture.
Strategy:	Lobby government, companies and other individuals to secure funding for cultural and creative expression fields.
Action:	Development of a cultural/community grant application assistance program to support events and community projects.

SUMMARY:

The purpose of this report is to request a Community Grant of Council fees under Section 356 Donations for the fundraising fete that was held on Saturday 21 October 2017.

OFFICER'S RECOMMENDATION:

1. That Council give public notice for 28 days of the proposed \$40.00 section 356 donation to Grace Munroe Aged Care Auxiliary.
2. That Council, subject to receiving no objections during the 28-day public notice period, contribute \$40.00 in financial assistance to Grace Munroe Aged Care Auxiliary.

BACKGROUND:

Grace Munro Aged Care Auxiliary held a fete to raise funds for the Grace Munro Centre on the 21 October. Unfortunately on the day, it rained, forcing the organisers to relocate at short notice to the Bundarra School of Arts hall. The Grace Munroe Auxiliary has requested the fee to be waived under the circumstances; this would greatly assist future donations to the Grace Munro Centre.

The fete stallholders included:

- Bundarra Lions providing a BBQ
- CWA will be holding a morning tea
- Numerous Stall Holders (plants, cakes etc.)
- Chocolate Wheel
- White Elephant sale
- Jumping Castle from MacIntrye Lions Club

All fete proceeds went to Grace Munroe Aged Care.

Uralla Shire Council
Council Business Paper – 28 November 2017

REPORT:

The Grace Munroe Auxiliary have requested that all applicable Council fees for the fete be waived so that all funds raised can be used to support the aged care services.

Estimated Council Fees for the event are:

- Hire of Bundarra School of Arts Cost \$40.00

KEY ISSUES:

- The Council cannot delegate a decision under section 356 to provide financial assistance to Grace Munro Aged Care Auxiliary.
- The Council can provide financial assistance to Grace Munro Aged Care Auxiliary, subject to 28 days public notice being made of Council's intention to provide a donation.

CONCLUSION:

This report recommends that Council, subject to 28 days public notice, provide financial assistance to the Grace Munro Aged Care Auxiliary to value of \$40.00 for the Council fees applicable to the fundraising fete held on 21 October 2017. Should Council receive objects during the public notice period, a further report will be provided to Council for consideration.

COUNCIL IMPLICATIONS:**1. Community Engagement/ Communication (per engagement strategy)**

The proposed donation under section 356 of the Local Government Act requires public notice for at least 28 days.

2. Policy and Regulation

Council has a Donations – Section 356 Policy, refer:

http://uralla.nsw.gov.au/files/uploaded/file/Your%20Council/Council%20Documents/Operating%20Policies/Policy%201.2.06/1_2_06_Donations_-_Section_356.pdf

Local Government Act

Section 377, General power of the council to delegate, states (in Part):

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following:
 - (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons
- (1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if:
 - (a) The financial assistance is part of a specified program, and
 - (b) The program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
 - (c) The program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - (d) The program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

Uralla Shire Council
Council Business Paper – 28 November 2017

Section 356, Can a council financially assists others states:

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.
- (2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.
- (3) However, public notice is not required if:
 - (a) The financial assistance is part of a specific program, and
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 - (c) The program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - (d) The program applies uniformly to all persons within the council's area or to a significant group of persons within the area.
- (4) Public notice is also not required if the financial assistance is part of a program of graffiti removal work

3. Financial (LTFP)

Council has an adopted budget for donations and community grants in the 2017/18 operating budget.

4. Asset Management (AMS)

Nil

5. Workforce (WMS)

Nil

6. Legal and Risk Management

Nil

7. Performance Measures

Nil

8. Project Management

Nil

Prepared by staff member: Kim-Trieste Hastings

Approved/Reviewed by Manager: Patricia Kirkland

Department: Community & Governance

Attachments: A Request for fee to be waived.

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END OF BUSINESS PAPER