

POLICY:-	
Policy Title:	Private Works and Plant Hire Policy
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PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	26 July 2007
Procedure/guideline reference number:	

RESPONSIBILITY:-	
Draft Policy Developed by:	Director of Infrastructure
Committee/s (if any) consulted in the development of this policy:	NA
Responsibility for implementation:	Manager of Infrastructure Delivery
Responsibility for review of Policy:	Manager of Infrastructure Delivery

PRIVATE WORKS

PROJECTS AND PLANT HIRE

1. DEFINITION

Private work includes any work, undertaken upon agreement with a landowner, of a nature on private lands and / or public lands which lies outside the routine responsibility of Council for which a quotation or schedule of rates has been provided by Council.

Plant Hire includes using Council owned plant and equipment to carry out work that lies outside the responsibility of Council.

2. CITATION

This document may be cited as Upper Lachlan Shire Council Policy – Private Works (Projects and Plant Hire).

3. APPLICATION OF POLICY - OBJECTIVE

The purpose of this policy is to outline Council's requirements for the undertaking of these private works (projects and plant hire). The policy is designed to make the plant available to the community for work at cost and comply with Trades Practices Act 1974. The policy also aims to protect the integrity, security and reputation of the Council, Councilors and its staff and maintain a high level of services to the community.

All enquiries regarding this policy are to be directed to the Infrastructure Department of Council.

4. REQUIREMENTS

4.1 PROJECTS

- (i) No private works projects shall be undertaken until:
 - a. The person requesting such private works has accepted the quotation in writing;
 - b. Payment for the work has been received by Council. (Except for works meeting clause 4.2)
- (ii) Payment is to be in the form of cash, cheque or unconditional bank guarantee received in full at Council.

- (iii) At the request of an applicant, a quotation will be provided in writing by Council and prior to commencement of any works commencing, must be accepted by the applicant in writing.
- (iv) Private works projects of any value will not commence until a cash deposit or bond equivalent to 100% of total value of the private works is paid to Council.
- (v) Private Works to the value of \$500.00 or up to two (2) hours duration of grading (whichever is the greater) may be allowed as an exception to clause 4.1 b on the basis of payment after the work has been carried out.
- (vi) Private works to the value above \$50,000 must be referred to the Director of Infrastructure for consideration.

4.2 PLANT HIRE

- (i) Hire of plant is permitted when hired with the plant operator (wet hire);
- (ii) Plant hire without the operator is not permitted;
- (iii) Council provides supervisory functions when hired with the operator.
- (iv) The applicant is responsible to discuss with the operator the standard of work to be achieved or to terminate the plant operation at any time if the work does not meet the applicant's satisfaction.
- (iii) Works are completed with care and efficiency, but no responsibility is taken to meet the expectations of the completed works.
- (iv) Council is not responsible for any loss or damage incurred by recall or withdrawal of plant or staff from any works.
- (v) All plant travelling costs to and from the private works location is an additional charge to those hours actually worked on site. It is therefore required that the person wishing to hire such plant do so when that particular plant item is stationed in the nearby proximity thus minimizing travelling expenses.
- (vi) The applicant is responsible for identifying and clearly marking any underground or overhead services that may be affected by the proposed works. Council is not responsible for damage(s) to services whilst undertaking the works.

- (vii) The schedule of hire rates makes provision for two levels of hire, i.e.:
 - (a) Work completed during normal working hours;
 - (b) Work completed after normal working hours as an overtime rate. Higher charges apply for the overtime and work outside normal hours.
- (viii) All private works requested will be at Council's convenience or as directed by Council's Manager of Infrastructure Delivery (or his representative) i.e. Council programmed works receive first priority over any private hire activities.
- (ix) Plant is to be operated by Council employees (wet hire).
- (x) Rates charged for hiring plant is fixed at full cost recovery by Council in the Annual Operational Plan; incorporating the Revenue Policy and Fees and Charges.
- (xi) Applicants wishing to hire plant are to sign Council's standard request form prior to hire commencing.
- (xii) All previous plant hire debtor accounts are to be paid prior to any additional works being undertaken by Council.
- (xiii) Plant is meant to include graders, backhoes, loaders, trucks, rollers and the like.
- (xiv) All materials will be charged at full cost recovery and risk margin.
- (xv) All equipment hired will be charged out for actual time on the job (not time used).
- (xvi) Council staff and Councilors are not permitted to hire Council plant and machinery. Plant hire is not permitted for activities benefiting Council staff and Councilors (either directly or indirectly). .
- (xvii) Fix lump sum prices are not permitted and each project must be individually costed.

Council will undertake Private Work in accordance with adopted rates for the Hire of Plant & Equipment. Private Work however will only be carried out subject to the availability of Council Plant & Equipment and without significant disruption to existing work programs.

Weed Control activity deemed as Private Work will also be included, with arrangements to be approved by both the Coordinator Maintenance (or Coordinator Construction) and Manager Regulatory Compliance and Biodiversity Services.

5. INDEMNITY

In requesting and authorising the Upper Lachlan Shire Council to carry out private works (projects or plant hire), the applicant shall indemnify the Upper Lachlan Shire Council against any claim, action or process for damage or injury which might arise during the progress of such works and shall keep indemnified the Upper Lachlan Shire Council against any claim, action or process for damage and/or injury which might arise from the existence of such works unless such damage and/or injury is due or contributed to by an act or omission of the Upper Lachlan Shire Council, its employees or agents.

6. COMPETITION

Private work is not a core function of Council and is provided so as to supply a reasonable economical means of a landholder securing access to earthmoving plant. This work is “contestable” and Council does not wish to promote or seek any monopoly over these functions. As such, applicants may wish to seek alternative quotations or plant hire options through other earthmoving organisations. Council encourage applicants to seek alternative quotations from other providers.

In all cases written quotations will be issued, with acceptance by Signed Agreement required for all works and authorized by Coordinator Maintenance or Coordinator Construction.

Council will undertake private works with a risk margin of 20% being required to cover supervision and the preparation of the estimated cost. The Director of Infrastructure may alter this risk margin if deemed necessary to provide a competitive price for works in excess of \$50,000.00.

Council may provide a subsidy to community based or charitable organisations in respect of plant hire. All costs incurred by Council in respect to labour and materials are charged against the organisation concerned.

Private Works - General (section 67 of the Local Government Act 1993) are to be charged at cost price and will also include a percentage for administration, supervision etc. as shown in the fees and charges schedule of Council's Operational Plan plus GST where applicable.

7. PUBLIC PERCEPTION ON STAFF EQUIPMENT HIRE

Hire of Council owned equipment by Council staff and Councilors are not permitted. Emergency works undertaken during Natural Disaster event to protect life and property are exempt from this provision.

8. NON-COMPLIANCE WITH THIS POLICY

Failure to comply with the terms of this policy including private use of plant by staff may lead to disciplinary investigation of the responsible staff member. Any instances of inappropriate conduct can lead to dismissal and / or criminal prosecution.

9. VARIATION

Council reserves the right to vary or revoke this policy.

10. RELEVANT LEGISLATION

- Local Government Act, 1993;
- Trades Practices Act 1974;
- Local Government (General) Regulations, 2005;
- Independent Commission against Corruption Act ,1988;
- Government Information (Public Access) Act 2009;
- Privacy and Personal Information Protection Act 1998;
- State Records Act 1998;
- Crimes Act 1900 (NSW);
- Code of Conduct Policy and Procedure;
- Complaints Management Policy;
- Upper Lachlan Shire Council Operational Plan Schedule of Fees and Charges;
- Code of Business Practice;
- Statement of Ethical Principles;
- Fraud and Corruption Prevention Policy;
- Procurement Policy;
- NSW Ombudsman - Good Conduct and Administrative Practice (Guidelines for State and Local Government) June 2006; and