

## BREWARRINA SHIRE COUNCIL

### Agenda Submission for Ordinary Meeting held on 30 June 2011

<b>TITLE:</b>	<b>Section 449, NSW Local Government Act 1993 Returns disclosing interests of councillors and designated persons</b>	<b>DOC REF:</b> Item 2 C12 -3
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<b>REPORT BY:</b>	Glenda Tasker– General Manager	<b>DATE:</b> 10 June 2011
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#### **ATTACHMENTS:**

Return form disclosing interests of councillors and designated persons - supplied separately  
Self-Help Guide for the completion Of Returns- (29 pages) supplied separately  
Conflicts of Interest – Case Studies – supplied separately

#### **EXECUTIVE SUMMARY**

Every Councillor and Designated Person must complete and lodge returns disclosing interests of councillors and designated persons as prescribed by Section 449 of the NSW Local Government Act, 1993 (LGA):

#### **449 Returns disclosing interests of councillors and designated persons**

- (1) A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form prescribed by the regulations.
- (1A) A person must not lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- (2) A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in that year or the previous year or if the person ceases to be a councillor or designated person within the 3-month period.
- (3) A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form prescribed by the regulations.
- (4) A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.
- (5) Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.
- (6) Nothing in this section or the regulations requires a person to disclose in a return lodged under this section an interest of the person's spouse or de facto partner or a relative of the person.

S 451 of the LGA outlines the necessity for the disclosures and provides the rules relating to disclosure of any pecuniary interest in any matter to be discussed as part of the business of the Council

- (1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.

- (2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:
- (a) at any time during which the matter is being considered or discussed by the council or committee, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.

Note: The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on councillors, members of staff of councils and delegates of councils.

S 460 outlines the complaint process to be followed where S449 is contravened.

Declaration forms are supplied with your Business Paper and should be handed to the General Manager as soon as practicable. The General Manager is required to keep a register of the dates upon which the return forms were provided to councillors and also of the dates on which the properly completed forms were received.

**FINANCIAL IMPLICATIONS:**

Nil

**LEGAL IMPLICATIONS:**

Penalties apply for non-compliance including suspension of a councillor from public office.

**RECOMMENDATION:**

**That:**

- 1. Council notes the information report concerning councillor and senior staff requirements to lodge pecuniary interest returns in accordance with S449 of the Local Government Act, 1993**

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Glenda Tasker  
General Manager