



Councillors Discretionary Funds (S.109 – Local Government Act 2009) (S.202 – Local Government Regulation 2012)

S.109 Councillor's discretionary funds

- 1) A councillor must ensure that the councillor's discretionary funds are used in accordance with the requirements prescribed under a regulation.
- 2) **Discretionary funds** are funds in the local government's operating fund that are—
 - a) budgeted for community purposes; and
 - b) allocated by a councillor at the councillor's discretion.

S.202 Requirements about discretionary funds—Act, s 109

- (1) This section prescribes requirements for—
 - (a) a local government for making discretionary funds available; and
 - (b) a councillor for using discretionary funds.
- (2) A local government must, within 20 business days after adopting its budget for a financial year, publish a notice (the **availability notice**) stating—
 - (a) the amount in the local government's discretionary funds budgeted for use by each councillor for the financial year; and
 - (b) that community organisations may apply for allocation of the funds; and
 - (c) how to apply for allocation of the funds.
- (3) The availability notice must be—
 - (a) published on the local government's website; and
 - (b) displayed in a conspicuous place in the local government's public office.
- (4) A councillor may use the councillor's discretionary funds in any of the following ways—
 - (a) to spend for a community purpose;
 - (b) to allocate for capital works of the local government that are for a community purpose, but only with the approval of—
 - (i) if the councillor is the mayor—the deputy mayor and the chief executive officer; or
 - (ii) otherwise—the mayor and the chief executive officer;
 - (c) to allocate to a community organisation for a community purpose.
- (5) The mayor, the deputy mayor or the chief executive officer must have regard to the local government's 5-year corporate plan, long-term asset management plan and annual budget when deciding whether to approve the allocation of a councillor's discretionary funds under subsection (4)(b).
- (6) For subsection (4)(c), a councillor—
 - (a) may allocate funds only to community organisations that have applied for the funds in the way stated in the availability notice; and
 - (b) must allocate the funds in a way that is consistent with the local government's community grants policy.
- (7) As soon as practicable after an amount has been allocated from a councillor's discretionary funds, the local government must publish a notice stating—
 - (a) the amount and purpose of the allocation; and
 - (b) where an amount has been allocated to a community organisation, the name of that community organisation.
- (8) The notice under subsection (7) must be published under subsection (3)(a) and displayed under subsection (3)(b).
- (9) A councillor must not allocate the councillor's discretionary funds in a way mentioned in subsection (4)(a) or (c) during the period—
 - (a) starting on 1 January in the year a quadrennial election must be held; and
 - (b) ending at the conclusion of the election.

Note:

Within the 2020/21 Budget, Etheridge Shire Council has not allocated any "Discretionary Funds" to Councillors under S.109 of the Local Government Act 2009